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Military intervention in the Kurdish crisis April-July 1991.

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'MILITARY INTERVENTION IN THE KURDISH CRISIS
(MARCH - JULY 1991)'

By

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for the Doctorate of Philosophy
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The following work is entirely my own. I alone am responsible for any errors in the content.

ABSTRACT

This thesis examines the multi-national military intervention into the Kurdish crisis in northern Iraq from April to July 1991. It traces the events of the crisis in Iraq, Turkey, Iran (and reactions outside the region) paying particular attention to the decision to launch a humanitarian intervention operation and the operation itself. It reviews these events in the light of additional information not available to the authors of the first published accounts. It also considers the political and legal implications of the actions taken by all the parties involved, including the UN, and draws conclusions on the status of military intervention as a method of conflict resolution.

The thesis considers the background to the crisis: the history of the Kurds, their cultural and political cohesion, in the past and the present, their aspirations as a people and their relations with other peoples and groups in the region. It reflects on the policies of the governments of Iraq and her neighbours towards the Kurds and their aspirations. It also considers the past conduct of the leading states who have had an influence on political events in the 'northern tier' of the Middle East throughout the century.

The thesis concludes that the consensus views of academics and journalists at the time of the crisis were broadly accurate, both in the reporting of significant events and in the assessment of their significance. These conclusions are based on new evidence and analysis. Some of this new material is original and some is drawn from the recent work of other authorities. Thus, seven years after the crisis, this thesis brings together evidence, analysis and conclusions which amount to a new assessment of the crisis and the military operation.

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CHAPTER 1

INTRODUCTION

The revolt of the peoples of northern Iraq began on 5 March 1991, within days of the ending of the Gulf War.¹ It coincided with other outbreaks of fighting elsewhere in the country, especially in the south-east near Basra but also in the area to the south of Baghdad. There is no evidence of coordination between the revolts in the different areas: they occurred as independent uprisings to take advantage of Iraq's defeat by the multinational coalition, led by the US, in the Gulf War.

In the north of the country the instigators of the revolt were Kurdish fighters (*peshmerga* - 'those who face death'). But members of Iraq's other ethnic minorities, as well as Arabs who opposed the regime, were also involved. In the south-east the rebels were predominantly Shia Arabs.² Fighting continued throughout March and early April. The high point of the revolts came on 21 March; on 25 March the Iraqi counter-offensive began. On 28 March the flight of the defeated rebels (and others who feared government reprisals) began: the people in the north towards Turkey and the people in the south-east towards Iran. By 11 April when an armistice was agreed there were nearly 500,000 fugitives on the Turkish border and 1.5 million crossing into Iran. Media reports of the distress of so many people on the Turkish border provoked international action, first at the UN and then in the capitals of Western states.

¹ "An uprising of the Kurdish minority [in Iraq] is imminent" Turkish politicians said at the weekend' Alec Russell (from Diyarbakir) The Daily Telegraph 4 March 1991.

When hundreds of thousands of migrants fled towards the state borders to escape repression international observers began to demand 'intervention' to forestall 'genocide'. Neighbouring states called on the UN to take action to avert an 'international' threat: the possibility of uncontrolled masses of refugees (or of actual fighting) crossing into their own territory. On 5 April the Security Council adopted Resolution 688. Later several states sent a multinational force first to Turkey and then into northern Iraq to provide 'safe havens', places of safety inside Iraq where the would-be refugees would be provided with humanitarian aid.

The first relief efforts were achieved by the aid agencies.³ The first military action was the delivery of relief supplies by air drop, beginning on 8 April. In the following nine weeks 22,000 soldiers, marines and airmen from seven⁴ states deployed to Turkey (and then into northern Iraq) to bring relief to the people who had been forced to leave their homes in the earlier fighting. Working with the aid agencies military forces repaired infrastructure, provided accommodation and maintained public order in the occupied area of north-west Iraq.

Operation PROVIDE COMFORT, as the military activity was named, took the lead in distributing aid and providing security in northern Iraq until 7 June. Thereafter the military handed over responsibility for relief to the aid agencies and remained to provide protection. The coalition withdrew their forces from northern Iraq in the middle of July but retained forces in the border area of Turkey to deter renewed Iraqi operations against the Kurds.

² Members of other minorities, and other dissident Iraqis, took part in both revolts.

³ The first to arrive were probably French NGOs, like *Medecins Sans Frontières*, which had made contact with the Kurds during the revolt in March. Martin Griffiths interview 28.2.94.

⁴ States providing forces were the US, the UK, France, Italy, the Netherlands, Spain, Belgium. Small contingents were sent by Australia and Luxembourg. Germany provided non-combat personnel. This small number of contributing states contrasts with the 32 states which contributed forces to DESERT STORM.

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the success of PROVIDE COMFORT in providing relief for the DPs (displaced people) came about through the rapid response of coalition land, sea and air forces - and together with aid agencies - in a mission which had not been foreseen or planned in advance. It was characterised by a strong spirit of cooperation amongst all who took part. The second success of PROVIDE COMFORT was that it prevented the Kurdish issue become even more of a destabilising factor in the region than hitherto.

THIS THESIS

There exists, as yet, no comprehensive account of the Kurdish Crisis in which the events are fully explained, analysed and set in their historical context. This thesis sets out to redress this gap by presenting :

- an investigation of the historical context of the revolt of the Iraqi Kurds (in March) and the subsequent flight of up to 2 million Kurds (and members of other minorities in northern Iraq) to the Turkish (and Iranian) borders.
- a full account of the international military action.
- a description of the state of international law, and the international political consensus (with regard to 'intervention') prevailing at the time of the crisis.
- analysis and conclusions, tentatively assessing the Kurdish Crisis and the international intervention as a possible model for future multinational 'humanitarian intervention' operations in intra-state conflicts.

It will address the following themes:

- the balance between considerations of sovereignty versus the considerations of human rights in the international community's approach to intra-state crises.

- the opportunities and dangers of the international community selecting forceful measures, as against non-forceful measures, to deal with an intra-state crisis.
- the role and choices facing states like Turkey in the post Cold War world.
- the problems raised by the Kurds and other peoples-without-a-state, in 1991 and thereafter, as seeds of intra-state conflict.

The approach of this thesis, therefore, is to examine the political, legal and military dimensions of the crisis with a view to providing an up-to-date statement of its significance. The thesis is in three parts: the origins and dimensions of the problem, the case study of the Kurdish crisis and its resolution, and analysis of the longer-term implications of decisions and events. The issues raised are legal, political, and military.

SCOPE, SCALE AND DIRECTION OF THE THESIS

Since the end of the Cold War the international community has been confronted by a succession of crises brought about by intra-state conflict. The wars in Liberia, northern Iraq, Somalia, Rwanda and Bosnia were cases of intra-state conflict. In his book *Diplomacy*, published in 1994, Henry Kissinger identified the resolution of intra-state conflict as the greatest challenge of the post-Cold War world.⁵ He, and others⁶, have pondered the place of intervention in US national (and more generally, Western) strategy in the future.

⁵ 'Never before has a new world order had to be assembled from so many different perceptions, or on so global a scale. Nor has any previous order had to combine the attributes of the historic balance-of-power systems with global democratic opinion and the exploding technology of the contemporary period.'

H A Kissinger *Diplomacy* (New York: Simon and Schuster, 1994) p 26.

⁶ 'The issue of military intervention in the internal affairs of states is central in a post-Cold War international system characterised by many dangerous, troubled, and even murderous states.'

Stanley Hoffmann 'The Politics and Ethics of Military Intervention' *Survival* Vol 37 No 4 Winter 1995-6 p 29.

Recent intra-state conflicts have created intense suffering - amounting to starvation and genocide - amongst civilian populations. The international community has shown humanitarian concern for the victims but it has also been alarmed at the possibility of communal fighting spreading across borders to create wider, regional crises.

Robert Kaplan⁷ has argued that the post-Cold War world will see a descent into 'pre-Westphalian' violence as the global population grows and ethnic tensions bring 'failing and faltering states'⁸ to the point of collapse. Quoting van Creveld⁹ Kaplan predicts upheavals in Africa, in the Caucasus and in the Levant. These disorders will come about through urbanisation, disease, deprivation and political polarisation. Migrants will move towards havens of opportunity and security. Taking issue with Huntington Kaplan states that the 'clash of civilisations'¹⁰ will be overtaken by a mass of smaller wars and states of anarchy, as in Somalia since 1993: the wars of competing nationalisms will be replaced by 'cultural war', triggered by disputes over resources, especially water. The atmosphere surrounding this 'coming conflict' debate has been described as the 'new pessimism'.¹¹

Conflict inside states prompts a re-assessment of the problems of 'peoples without states'. Until recently the international community addressed these problems by developing the political and legal concepts of 'self-determination' in the context of anti-colonialism. Today the international community faces groups within states where the dissatisfaction

⁷ 'The Coming Anarchy' The Atlantic Monthly February 1994.

⁸ Robert G Helman and Steven B Ratner 'Saving Failed States' Foreign Affairs Winter 1992-3 pp 3-21. Paul Kennedy Preparing for the 21st Century (New York: Random House, 1993). Richard J Norton and James F Miskel 'Spotting Trouble: Identifying Faltering and Failing States' Naval War College Review Spring 1997 Vol L, No 2, p 79-91.

⁹ Martin Van Creveld The Transformation of War (New York: The Free Press, 1991). In a more recent article he foresees the break-down or decay - if not sudden collapse - of the state system which has been developing since 1648. In his words the '300 year period that opened at Westphalia ... is coming to an end.' 'The Fate of the State' Parameters Spring 1996 p 17.

¹⁰ Samuel P Huntington 'The Clash of Civilisations ?' Foreign Affairs, Vol VII, No 3 1993 pp 22-49.

arises not from oppression by a colonial power but from action of a dominant group in the population: the abuse of the human or political rights of the non-dominant group(s). Kaplan's vision of future conflict in the Developing World supposes that the clash of opposing 'nationalisms' will become more widespread, more destructive and will spill over into other states. The international community has to decide how to manage such conflicts. It might require state authorities to recognise the cultural identity of non-dominant groups. But the recognition of minorities tends to undermine a state's efforts at 'nation-building' and can encourage dissent. It appears likely that the existing state system will struggle to contain such 'people without state' problems for the foreseeable future. Perhaps these conflicts will only end when the existing system is overtaken by a more flexible international structure.

This thesis is a case-study of an outbreak of intra-state conflict involving a dissident ethnic group within a state. The revolt of the Iraqi Kurds and the subsequent repression by the Iraqi authorities led to a multinational intervention known as Operation PROVIDE COMFORT. This forcible military action brought humanitarian aid to the victims of the fighting in northern Iraq.

Existing accounts of the succession of crises involving the Kurds (in Iraq and elsewhere) dwell on the failure of Kurdish nationalism or separatism. Two schools of thought can be defined. For Bulloch and Morris the failure is largely due to the 'betrayal by the Great Powers'.¹² Gerard Chaliland¹³, writing in the late 1970s, preferred to emphasise a

¹¹ Charles William Maynes 'The New Pessimism' Foreign Policy No 100 Fall 1995

¹² They acknowledge the inadequacy of Kurdish leadership and the other divisive elements in Kurdish society (viz. language and religion) which have frustrated efforts to create an effective national movement. They nevertheless place much greater weight on the effect of external manipulation to explain the failure of the Kurds to achieve statehood in the 20th century. John Bulloch and Harvey Morris No Friends but the Mountains: the Tragedy of the Kurds (Harmondsworth: Viking (Penguin), 1992) p 230-231.

¹³ Gerard Chaliland 'Introduction' in Gerard Chaliland (ed) People without a Country: the Kurds and Kurdistan (London: Zed Press, 1980) p 15-16.

different underlying cause: the 'failure of leadership' in the Kurdish populations throughout the 20th century:

The leadership never managed to set itself the goal of rising above its own society, carrying the masses with it, as other revolutionary leaderships managed elsewhere.

The backwardness of the mountain Kurds, the leaders as well as the masses, prevented them from seizing the opportunities presented by 1918 and 1946.

Unlike nationalists elsewhere:

the fundamental values [of the elites] are those of yesteryear: tactical cunning instead of political analysis, clientist manoeuvrings instead of political mobilisation, and a few revolutionary slogans rather than real radical practice.

The Chaliland approach, although written after an earlier conflict in northern Iraq, is applicable to the post-Gulf War situation in northern Iraq.

This study does not address primarily the questions 'why did the Kurds revolt?' and 'why did the revolt fail?'. The focus is, rather, on the diplomatic and military reaction of the international community to the events of March to July 1991 rather than the actions of the Kurds (and Iraqis) themselves in that period (or any other). It contributes to existing work which assesses the wider significance of these events.

During and immediately after the Kurdish Crisis of 1991 journalists and scholarly commentators arrived at a set of conclusions over the origins and significance of those events. There was a consensus over the status of the crisis. It was assessed as an upheaval which occurred as an immediate consequence of the coalition victory in the Gulf War and as a longer-term consequence of the continuing struggles for Kurdish autonomy in Iraq and Turkey. The intervention was assessed, more broadly, as a result of greater cooperation between the Western powers, the USSR and China in the aftermath of the Cold War.

The consensus might be summarised as follows:

The Kurdish people have always desired national self-determination. In 1991 the revolt of the Iraqi Kurds occurred because they wanted to exploit the regime's defeat in war. It appeared to be an opportunity for them to break free. After the defeat of the revolt the Turks resisted the inflow of Kurdish refugees. They feared the inflow might undermine their efforts to control the Kurdish population in Turkey. The coalition states sent military forces into northern Iraq out of humanitarian concern for the plight of the Kurdish people. The Western European coalition members acted from the additional motive of showing that their own military efforts in the post Cold War world need not always be overshadowed by those of the US, as they had been in the Gulf War. Turkey cooperated with the coalition to ensure that the potential refugees would remain inside Iraq and did not have to enter their territory. The intervention does not amount to a legal precedent creating a 'right of intervention'. The military operation was straightforward. The mission was accomplished and there was no serious risk of Iraqi resistance.

This thesis will, broadly, confirm the accuracy of these first assessments. However, a closer examination of evidence available from wider sources and over a longer period now allows a deeper analysis and more considered judgements. Specifically this study addresses several opposing currents in international and regional politics: the tension between sovereignty and human rights, between the legality of imposed as well as consensual intervention into the internal affairs of states, between Western and Eastern influences in states like Turkey and between the rights of minorities *vis-à-vis* the states in which they live.

The Kurdish crisis of 1991 occurred in the period of post-Cold War transition. This period has not yet ended. A study such as this can only offer a preliminary analysis and some tentative conclusions to the questions raised. But a review, after seven years, is timely and necessary. This crisis provided a threshold for the international community: a possibly decisive shift in opinion that may lead the UN and its member states towards an acceptance of humanitarian intervention as a 'permanent exception' to the well-established rule of non-intervention in the 'domestic jurisdiction' of states.

Whatever the longer-term assessment it is clear that the success of the intervention in northern Iraq contributed to a real, if short-lived, period of international confidence¹⁴ in a more orderly post-Cold War scene. One influential commentator has since called the mood of those days a 'springtime for Interventionism'.¹⁵ Another has referred to those days as an 'Age of Innocence'¹⁶ and a third 'the period of euphoria'.¹⁷ A fourth, famously, even proclaimed 'the end of History.'¹⁸ Yet another has described the mood of the 'new interventionists' as 'crusading liberal internationalism'.¹⁹ This optimism

¹⁴ Sir David Hannay, UK Permanent Representative at the UN 1990-95, describes the post Cold War UN as empowered by the drawing of 'three poisonous thorns' in the years 1989-92. These thorns were: the ending of the Cold War itself, the collapse of the apartheid regime in South Africa and the establishment of a Middle East peace process. The events liberated the international community from the most divisive quarrels of the years since 1945. Lecture at Chatham House, London, 21 November 1995.

¹⁵ James F Hoge, 'Editor's Note' Foreign Affairs Vol 73, No 6 November-December 1994.

¹⁶ Thomas G Weiss 'Military-Civil Humanitarianism - The 'Age of Innocence' is Over' International Peacekeeping Vol 2 Summer 1995, pp 157-74.

¹⁷ David Malone, former Deputy Permanent Representative of Canada at the UN, has described the period from the end of the Gulf War to the death of the 18 US Rangers in Somalia (October 1993) as the 'period of euphoria' of UN peacekeeping.

'The post-Desert Storm period of euphoria crashed to an end in 1993 when the deaths of 18 Marine Rangers in Mogadishu undermined the willingness of the US to risk military casualties in the service of the UN.'

'Security Council Decision-Making and the Future of UN Peacekeeping' The Oxford International Review Spring 1996 p 23.

¹⁸ Francis Fukuyama The End of History and the Last Man (London: Hamish Hamilton, 1992).

¹⁹ Stephen John Steadman 'The New Interventionists' Foreign Affairs 72: 1. Steadman argues that the 'new interventionist' mood of 1990-2 reflected the reuniting of two stands of American liberalism, until recently split by the Cold War. The 'containment' liberals saw the end of the Cold War as a triumph of preparedness and confrontation with the USSR. The 'Wilsonian' liberals saw the end of the Cold War as a triumph for human rights and an opportunity to strengthen international organisations. Steadman

infected international diplomacy: the July 1991 meeting of the G7 issued a communiqué which did not only endorse the on-going humanitarian intervention in northern Iraq but suggested that a new norm for international conduct had come into force. The next year, following the unprecedented 'heads of government' session of the Security Council in January 1992 (and Boutros Boutros-Ghali's *Agenda for Peace*²⁰) many felt confident that the international community was, for the first time, ready to deal with all manner of threats to international peace and security.

The few months following the intervention in northern Iraq proved to be the high water mark of confidence; shortly afterwards the failures of interventions in Somalia, Rwanda and Bosnia led to the adoption of a more hesitant, modest and limited agenda for future action. The publication of a *Supplement to Agenda for Peace*²¹ (1995) reflected this decline in confidence. The disillusionment also inspired a flood of academic and journalistic speculation on the prospect of the spread of inter- and intra-state conflict.²²

THE MAIN LINES OF ARGUMENT

This study confirms many elements of the consensus view:

1. The revolt in northern Iraq took place because the mainly-Kurdish population saw the Gulf War armistice as an opportunity to liberate their territory from the regime's control. US propaganda directed at the Iraqi population gave encouragement to the revolt.²³ Turkey at first prevented the inflow of would-be refugees from northern Iraq because the authorities feared that the mainly-Kurdish migrants would

makes a persuasive argument that US policy in the Middle East 1990-2 was founded on the support of these groups.

²⁰ Boutros Boutros-Ghali *Agenda for Peace* UN Publications, New York 1992.

²¹ Boutros Boutros-Ghali *Supplement to Agenda for Peace* UN Publications, 1995.

²² Robert Harvey *The Return of the Strong: The Drift to Global Disorder* (London: Macmillan, 1995).

²³ Freedman and Boren p 48. But note that President Bush (and other spokesmen) consistently denied that 'guilt' was a factor. News Conference 16 March, Despatch Vol 2 No 14, USIA 18 April 1991.

increase unrest in its own Kurdish population and perhaps assist the PKK terrorist campaign. Later, as a result of international opinion, the migrants were allowed to take shelter in mountain areas astride the border.

2. The coalition states acted partly out of humanitarian concern for the mainly-Kurdish victims of the Iraqi repression. The US at first resisted calls for intervention due to concern over accusations of 'incomplete victory in the Gulf War' and fears of 'quagmire' and 'fragmentation'. Later it bowed to public opinion and led the intervention. The European coalition states were also motivated in part by a sense of outrage over Iraqi repression. But they were also willing to intervene to show that they could take an initiative without depending on a lead from the US.

3. Turkey cooperated with the coalition to ensure that the victims of repression would receive aid in Iraq, not in Turkey. Government policy was also influenced by a desire to cooperate with the US and western European states to establish itself as a regional partner for those states in the longer term.

4. The coalition forces' operation emphasised the importance of human rights in international politics but does not amount to a legal precedent for future acts of intervention.

5. The outcome of the Kurdish crisis was a 'pragmatic solution' rather than a 'turning point'. It did, nevertheless, show an appreciable development of international opinion towards an acceptance of 'human rights' as a second pillar of international law, alongside the traditional concept of 'sovereignty'.

6. The Kurdish crisis (and the international reaction to it) did not substantially develop International Law - creating a 'right of intervention'. But it did advance the idea that the

international community is capable, under certain circumstances, of recognising systematic abuse of human rights (and for the first time in Security Council resolutions, of political rights), as a potential (if not actual) threat to international peace and security. 688 did, nonetheless, specify only very limited action to be taken under its authority.

The study's conclusions refine and develop the consensus view, as follows:

1. The revolt in northern Iraq was a spontaneous, unplanned event not the act of a long-standing and broad-based 'nationalist movement' bent on securing independence from Iraq. Nor was it a conscious attempt to 'liberate' other parts of Iraq.

2. Turkey's decision-making during the Kurdish crisis was dominated by domestic political and economic upheaval. The struggle between the factions within the ruling party was at its height. Accusations of 'unconstitutional' actions by the president added to the sense of crisis. Lack of consensus (and hurried decision-making) in the Turkish political elite led to sudden shifts in policy. The Kurdish crisis occurred just at a time when Turkey's internal and foreign policy was in disarray. On the one hand Turkey wanted to cooperate with the UN and the Western states. But Turkey also wanted to assert its independence against perceived attempts at manipulation by the US and the UK. Above all, the issue of Kurdish rights - central to the international crisis - touched the most sensitive area of Turkish politics. These contrary motives resulted in a dichotomy in Turkey's conduct: cooperative action at presidential level and suspicious, obstructive attitudes at lower levels.

3. The coalition states' stated reason for action was humanitarian concern. But in several coalition states this public feeling only determined the

outcome after ministers' strategic reservations had been overcome.

4. Earlier authors were correct in attributing the US Administration's initial refusal to intervene to a concern that another intervention in Iraq would diminish the Gulf War 'victory', draw the US into a 'quagmire' or fragment Iraq, to the detriment of regional security. They were correct to attribute the decision to commit ground forces to humanitarian concern for the victims of repression and to give some weight to a sense of responsibility for inciting the revolt. But the Administration may have had another reason: the fear that another intervention onto the territory of an Arab state - and on behalf of the unpopular Kurds - would offend potential supporters of US policy (including the emerging Middle East peace initiative) in the region. (Similar concerns had determined US policy towards the Iraqi Kurds 1973-6.) It is not possible, at this stage, to make a considered assessment of the relative weight of these various factors in the US decision-making process.

5. Whereas the coalition conducted a forcible intervention operation, claiming that its actions were 'consistent with 688', the UN Secretariat sought the consent of Iraq for its activities in that country. This difference in approach exemplifies the uncertainty over the legality and practicality of humanitarian intervention, even after the adoption of an apparently supportive Security Council Resolution.

6. The Kurdish crisis (and the international reaction to it) did not significantly develop International Law creating a 'right of intervention'. Nevertheless the literal and absolute interpretation of state sovereignty is giving way to a more 'elastic' definition. The actions of the Security Council and the coalition states, taken together, may have created a *political*, if not a legal, precedent for future acts of intervention.²⁴

7. PROVIDE COMFORT showed how a multi-national 'coalition of the willing' could successfully carry

²⁴ See p 34.

out a humanitarian intervention operation. The mission was accomplished, however, in the face of significant operational risks at the tactical level. These operational difficulties were minimised by consistent political direction, effective command through a 'lead-nation', intense logistical effort and a shared operational doctrine.

8. It may be that the real lesson to be drawn from the success of the operation was not the 'safe havens' formula for interventions but the high level of commitment by leading states and the unusual (perhaps unique) circumstances. Without the commitment of the leading states, directly linked to the pursuit of their own interests, this success is unlikely to be repeated.

Further conclusions are:

1. The coalition states intervened because their governments and their publics wanted to relieve the suffering reported by the media. They had important secondary incentives, however. The West European states wanted to assert themselves after they had played a supporting role in the Gulf War. The US at first resisted calls for intervention: it wanted to preserve the political opportunities, in foreign and domestic policy, created by its leading part in the victory in that war. Later it bowed to the pressure of its own public opinion.

2. International law is still founded on the concept of sovereignty. The international community is only prepared to tolerate (forcible) intervention in 'exceptional circumstances', a proviso which may be further widened in subsequent crises. The intervention into northern Iraq will stand as a political, if not a legal, precedent for future interventions to protect minorities suffering mass abuse of human rights in intra-state conflict. Turkey's reaction was dominated not just by its fear for the implications for its own PKK terrorist

campaign but also because of a wider political crisis engulfing the president and the ruling party.

3. The analysis suggests that intervention is more likely to be successful when the political direction is consistent, command is professional and the mission is limited. It may become a tool of crisis management in cases where leading states approve this response and when it is endorsed (explicitly or tacitly) by the Security Council. For some time afterwards PROVIDE COMFORT's achievement of its limited mission suggested that 'the creation of safe havens by external military forces' might be a formula which could be followed in subsequent crises. Despite this optimism PROVIDE COMFORT did not prove to be a workable model in the crises which followed.

LITERATURE REVIEW & SOURCES

PRIMARY SOURCES

In this study I have used documents and official statements issued by the UN and the governments of states which participated in the military operation. The resolutions and published records of the Security Council (and supporting correspondence) provide the essential core of the primary sources.

I have also studied parliamentary records and reports to parliaments even though they produced little new information. During the military operation I was present at planning meetings, received briefings and participated in decision-making. I was able to discuss these events with senior diplomats and military officers. In consideration of security regulations - and the wishes of most of these officials to speak on a non-attribution basis - I have not quoted these sources directly. I have used

the information provided to check facts and test judgements derived from open sources. During the military operation itself I also interviewed other military commanders, Turkish officials, Iraqi Arabs (military and civilian), Kurdish refugees and aid workers.

I have made use of all these sources in my analysis of the military operation. As a former senior staff officer (Chief of Operations, HQ PROVIDE COMFORT and later, as British contingent commander) in-theatre I am able to make these observations in more detail and with more authority than the authors of existing published accounts of these events. The most important areas analysed include:

- the operational policy of commanders and staff assigned to Operation PROVIDE COMFORT
- the operational tasking of forces assigned to PROVIDE COMFORT
- the conduct of the operation, including the planning preceding each operational phase (as well as exit coordination)
- the work of the MCC (Military Coordination Centre)
- the force balance and force-mix of the coalition forces
- command and control
- potential and use of air power.

These sources of information allowed me to confirm or correct statements made by others and to develop a new military analysis.

SECONDARY SOURCES

The thesis draws on several distinct bodies of work: the literature of the Kurds, Arabs and Turks and their common history; the literature of the political-military and legal aspects of intervention; the literature of sovereignty, nationalism and human rights; as well as existing accounts of (and commentaries on) the Kurdish crisis and the intervention operation.

The literature on the national and ethnic identity of the Kurds is dominated by the early work of Gerard Chaliland²³ and the recent work of Philip Kreyenbroek.²⁴ The latter's assessment of the ethnic, religious and linguistic character of the Kurdish people informs the analysis of the Kurdish crisis. Michael Gunter's standard texts provided background into the history of the Kurds in Turkey and Iraq.²⁵

Entessar's valuable contribution²⁶ is the concept of 'ethno-nationalism' as applied to the Kurds. His assessment of the status of Kurdish 'nationalism' bridges the conceptual gap between 'ethnic' and 'political' consciousness.

Several authors have addressed the problem of intervention into intra-state conflict as a key area of international politics in the post Cold War era. Henry Kissinger²⁷, Stanley Hoffmann²⁸ and John Ruggie's work²⁹ (as well as those other authors) identify the opportunities and the obstacles to the establishment of intervention as a means of conflict resolution in the future. Ramsbotham and Woodhouse present a reconceptualisation of 'humanitarian intervention' which develops *inter alia* questions on the legal and practical consequences of the intervention into Iraq. Despite several serious errors of fact in their brief account of events the breakdown of 'humanitarianism' into action, cause, end, approach, means and outcome allows a deeper analysis than is achieved by most commentators.

²³ Gerard Chaliland (ed) People without a Country: the Kurds and Kurdistan (London: Zed Press, 1980).

²⁴ Philip Kreyenbroek and Stefan Sperl (eds.) The Kurds A Contemporary Overview (New York: Routledge, 1992) and Philip Kreyenbroek and Christine Allison (eds.) Kurdish Culture and Identity (London: Zed Books, 1996).

²⁵ Michael M Gunter The Kurds of Turkey: A Political Dilemma (Boulder, Colorado, Westview 1990) and The Kurds of Iraq: Tragedy and Hope (New York: St Martin's Press, 1992).

²⁶ Nadar Entessar Kurdish Ethno-nationalism (Boulder, Colorado: Lynne Reinner, 1992).

²⁷ Henry Kissinger 'Diplomacy'.

²⁸ Stanley Hoffmann 'The Politics of Military Intervention'.

²⁹ John Gerard Ruggie Winning the Peace: America and World Order in the new Era (New York: Colombia University Press, 1996).

Their analysis of the 'precedent' question is also a useful contribution to the literature.³⁰

Several academic journal articles have, accordingly, examined the legal issues involved in the intervention in the Kurdish crisis. Christopher Greenwood's early work (1992) established the consensus view that the crisis did not provide any new 'right of intervention'.³¹ Howard Adelman³² contributed a useful, if brief, analysis of the debate on 688. Richard Lillich³³ and also Sydney Bailey³⁴ have offered useful assessments on the prospects for the future development of 'humanitarian intervention'. Rosalyn Higgins and Alan Buchanan have also recently published significant work on the international law of 'succession' of minorities.³⁵

UN documents relating to the Kurdish Crisis³⁶ are another source of information. These include the Secretary-General's statement of intent, *Agenda for Peace*, published in June 1992, and records of meetings and correspondence. Several recent books have assessed the state of the UN at its 50th year (1995), including the prospects for the enhancement of the organisation's powers of crisis management.³⁷

³⁰ Oliver Ramsbotham and Tom Woodhouse Humanitarian Intervention in Contemporary Conflict: A Reconceptualisation (Cambridge: Polity Press, 1996).

³¹ Christopher Greenwood 'New World Order or Old; The Invasion of Kuwait and the Rule of Law' Modern Law Review March 1992 and 'Is there a Right of Humanitarian Intervention' The World Today February 1993.

³² Howard Adelman 'Humanitarian Intervention; the Case of the Kurds' International Journal of Refugee Law Vol 4 No 1 January 1992.

³³ Richard Lillich Humanitarian Intervention and the United Nations (Charlottesville: University Press of Virginia, 1973).

³⁴ Sydney D Bailey The UN Security Council and Human Rights (New York: St Martin's Press, 1994).

³⁵ Allen Buchanan Secession; the Morality of Political Divorce from Fort Sumter to Lithuania and Quebec (Boulder, Colorado: Westview, 1991).

³⁶ The text of R 688 itself (see Chapter 7, below) and the record of the debate at the time 688 was adopted. Also the MOU signed by Sadruddin Agha Khan and the Iraqi government on 18 April (amended 25 May).

³⁷ Adam Roberts and Benedict Kingsbury United Nations: Divided World (Oxford: Clarendon Paperbacks, 1993).

In addition to statements made during the Security Council debate on 5 April, the participating states and other interested states made additional statements during the crisis.³⁸ Keohane, Nye and Hoffmann³⁹ provided additional material on the preoccupations of the US Administration after the Gulf War. Other sources gave insights into US⁴⁰, French⁴¹, Soviet, Chinese⁴² and Israeli⁴³ policy at the time of the Kurdish crisis. The US material presents interesting connections between US policy towards the Kurdish crisis and broader US foreign policy objectives in the region.

Additional source material came from accounts of the crisis published soon after the events. The most reliable account published to date has been by Freedman and Boren.⁴⁴ This is a short work, however, and one which does not analyse the various actors' motives in any depth. It provides some military details but does not attempt a military analysis. Its authors were understandably unaware of a number of significant facts which have come to light recently. They do, however, present a concise, accurate account of the events of the crisis and the intervention, as well as a list of sources for further study. The next most authoritative account is found in a chapter in Nicole and Hugh Pope's

³⁸ E.g. the news conferences given by the US president and the British prime minister in April.

³⁹ The end of Cold War was marked by the collapse of communist regimes in the USSR and in eastern Europe. It was also marked by the reunification of Germany, realised on 3 Oct 1990. 'Introduction: The End of the Cold War in Europe' by Robert O Keohane and Joseph S Nye in Robert O Keohane, Joseph S Nye and Stanley Hoffmann (eds.) After the Cold War: International Institutions and State Strategies in Europe 1989-1991, (Cambridge, Mass: Harvard University Press, 1993) p 2.

⁴⁰ John King Handshake in Washington: the Beginning of the Middle East Peace Process ? (Reading: Garnet, 1994).

⁴¹ M Bettati 'Le Droit d'Ingérence; sens et portée' Le Debat 1991.

⁴² 'Beijing Review'. Also Thomas J Christensen, 'Chinese Realpolitik' Foreign Affairs September/October 1996 and Samuel Kim (ed) China and the World: Chinese Foreign Relations in the Post Cold War World 3rd Edition, (Boulder, Co: Westview, 1994).

⁴³ Joseph Alpher War in the Gulf: implications for Israel (Boulder, Colorado: Westview, 1992).

⁴⁴ Lawrence Freedman and David Boren "Safe Havens" for the Kurds in post war Iraq' in Nigel Rodley (ed) To Loose the Bands of Wickedness: International Intervention in Defence of Human Rights (London: Brassey's, 1992). Other chapters in this book provide additional information and assessments of the Kurdish Crisis.

recent history of Turkey in the 20th century.⁴⁵ This account does contain, however, a number of controversial assessments which are not well supported by evidence.

One of the longer accounts of the crisis is Bulloch and Morris' 'No Friends but the Mountains'.⁴⁶ Theirs is a journalistic and somewhat emotive account of events. There is no military analysis nor are there any notes for reference. A similar approach is taken by Jonathan Randal whose recently-published study usefully pursues the questions of motivation in governmental decision-making in the intervening states.⁴⁷ Several military specialists⁴⁸ have written about the crisis, notably Bolger⁴⁹, Bellamy⁵⁰, Brown and Shukman, and Connaughton.⁵¹ Bolger's account gives a good overview of the operation but contains many errors of fact and debatable assertions presented as conclusions. Bellamy writes from the perspective of a war correspondent and focuses on his own first-hand experiences. He develops the perspective of the Kurdish crisis as a consequence of the wider Gulf conflict. His contribution is therefore mainly in placing events in their wider context. Bolger and Bellamy's accounts contain significant errors of detail, however, and their descriptions of events are in any case quite brief. Connaughton produces a valuable analysis of military doctrine associated with 'intervention' operations and some thoughts on the doctrinal questions

⁴⁵ Nicole and Hugh Pope Turkey Unveiled: Ataturk and After (London: John Murray, 1997).

⁴⁶ Bulloch and Morris 'No Friends'.

⁴⁷ Jonathan C. Randal After Such Knowledge what Forgiveness? My Encounters with Kurdistan (New York: Farrar, Strauss & Giroux, 1997).

⁴⁸ Ben Brown and David Shukman All Necessary Means: Inside the Gulf War (London: BBC Books, 1991).

⁴⁹ Daniel P Bolger Savage Peace: Americans at War in the 1990s (Novato, Ca: Presidio Press, 1995).

⁵⁰ Christopher Bellamy has written two accounts: Expert Witness: A Defence Correspondent's Gulf War 1990-1 Brassey's 1993 and Knights in White Armour (London: Hutchinson, 1996). The second deals with the Kurdish crisis in 3 pages, concentrating on narrative rather than analysis.

⁵¹ Richard Connaughton 'The Principles of Humanitarian Intervention' British Army Review 97 Summer 1987 and 'The Principles of Multinational Intervention in the Gulf Crisis' British Army Review 102 Autumn 1993.

associated with 'humanitarian intervention' specifically.

Press reports of speeches of political leaders, especially in the US and the UK, formed the basis for commentators' first attempts to understand the actions taken by - and the underlying motives of - the governments of the coalition states. These reports have since been supplemented by retrospective press interviews and biographical publications. According to these accounts the governments' motives were largely, if not purely, humanitarian. National (not to mention party-political) interests are played down. These press and biographical publications form the main body of evidence on which the 'consensus' view is based. Freedman and Boren cover this evidence well.

Few of the key decision-makers in the crisis have published memoirs to date. James Baker's account of his years as Secretary of State contains a brief but revealing account of the Kurdish crisis. It adds little to the consensus other than the claim that it was he who persuaded the president and colleagues in Washington to reverse the original (non-intervention) policy.⁵² General Powell's autobiography also provided insights into US decision-making over the intervention and the timing of the withdrawal of forces.⁵³

I have also drawn on recently-published work on Turkish foreign policy. The first available sources on Turkish reactions to the crisis are the speeches, statements and interviews published in the press. Most of the literature takes no account of the political crisis taking place in Turkey at the time the Kurdish crisis took place. These political upheavals were of course reported. But they were not related to the government's - or more accurately, the president's - decision-making over the Kurdish

⁵² See p 216, below.

⁵³ Colin Powell with Joseph E Persico A Soldier's Way (New York: Random House, 1995).

crisis. The most important, comprehensive and recent publication on Turkish politics in the 20th century is Zurcher's.⁵⁴ Aybet⁵⁵, Aykan⁵⁶ and Ayata⁵⁷ have recently also produced important publications on Turkish foreign policy.

Whereas the political turmoil inside Turkey - and in particular inside the governing party, ANAP - have been covered in detail by the Turkish press, no published work has added this information to the analysis of Turkish decision-making over the Kurdish crisis. The impact of the domestic political crisis inside Turkey is clearly relevant to the outcomes of that decision-making process. The main source has been *Turkey Briefing*.

Additional study of the published and unpublished memoirs of military participants of the operation has further developed my understanding of details of the operation.

INTERVIEWS

I have drawn on many conversations I had with Lieutenant General John Shalikashvili, the commander of Operation PROVIDE COMFORT, and other senior commanders and staff in Turkey and Iraq throughout the operation. I also had access to many other officers and officials who took part in PROVIDE COMFORT, and others whose assignments were in ministries or headquarters outside the operational area.

The interview with the former senior official at the UK Mission to the UN brought new insights into the

⁵⁴ Erik J Zurcher Turkey A Modern History (London: I B Tauris, 1993).

⁵⁵ Gulnur Aybet Turkey's Foreign Policy and its Implications for the West: A Turkish Perspective RUSI Whitehall Paper 1994.

⁵⁶ Sencer Aykan 'Patronage, Party and the State; The Politicisation of Islam in Turkey' Middle East Journal Vol 50 No 1 Winter 1996.

⁵⁷ Mehmet Ali Aykan 'Turkey's Policy in Northern Iraq 1990-91' Middle East Studies No 4 October 1996.

conduct of the debate inside the security Council at the time of 688's adoption.

The Packer interview gave insights into the legal basis for the Sadruddin and Suy missions and also the coordination of military and NGO relief efforts as seen from Geneva. The Ahtissari interview explained the background to the UN fact-finding mission sent to Iraq (and elsewhere in the region) immediately after the Gulf War.

Judge Richard Goldstone contributed interesting reflections on the significance of intervention for the preservation of human rights and the enforcement of International Humanitarian Law.

HE Martti Ahtissari, (now the President of Finland) contributed useful information on the origins and conduct of his UN fact-finding mission to Iraq immediately after the end of the Gulf War.

On the work of the humanitarian agencies the interview with Martin Griffiths (at that time a senior representative of the *Save the Children*) adds to the existing picture of NGO activities during (and attitudes towards) the humanitarian operation.⁵⁸

I have been able to develop and confirm my understanding of Kurdish nationalism and ethnicity by attendance at the SOAS seminars covering this subject in 1993 and 1994. I have also consulted Dr William Hale of SOAS, an international authority on Turkey and Turkish politics.

I also consulted Professor Michael Yahuda of the LSE, an authority on China and its politics in the 20th century.

ORGANISATION OF THE MATERIAL PRESENTED

The material is presented in order to develop two lines-of-enquiry: the origins and events of the

⁵⁸ Martin Griffiths is now a regional director of *Action Aid*.

crisis, on the one hand, and the political-legal significance of the crisis for the questions of sovereignty and intervention, on the other. The thesis is organised as follows:

Introduction

The Introduction presents the objectives, scope, themes and conclusions of the study followed by a review of existing literature. It contains a summary of sources and a statement on methodology.

Part 1 - The Issues

Sovereignty and human rights: the legal and political debate

This section examines the development of concepts of sovereignty and their relationship with the concepts of human rights. It also considers the legal and political basis for the 'precedents' on intervention which existed at the time of the Kurdish crisis.

The Kurds

The geographical spread of the Kurdish peoples has led to a rich and diverse political history. This section examines the politics and culture of these people and their experiences up to 1976.

Part 2 The Case Study

Turkey and the Kurds

Inside Turkey, the responses of the Turkish Kurds and the Turks to the crisis facing the Kurds of Iraq was conditioned by the history of conflict between the majority and minority populations. Specifically, attitudes were influenced by the on-going struggle between the Turkish Kurds' demand for cultural identity and the Turks' desire to build a unified state. Turkey's policy in 1991 was also influenced by the experience of providing a refuge for several hundred thousand Iraqi Kurds in the recent past.

Iraq, Iran and Syria and the Kurds

This section traces the roots of the conflict between Kurds and their host states. The actions of the Iraqi and Iranian Kurds during and after the Iran-Iraq War influenced events in northern Iraq in early 1991. This section also gives a brief account of the uprising in March.

The US, the USSR and the Iraqi Kurds 1988-91

The study then considers the objectives and constraints felt by the US and Soviet governments in their approaches to the 1991 crisis up to 5 April.

SCR 688

This section analyses the resolution text and the Security Council debate at the time of its adoption. It measures international opinion on the sovereignty-human rights debate and questions of a 'right of intervention'.

The decision to impose the havens

Between the adoption of R 688 and the arrival of the multinational force in northern Iraq there was intense diplomacy at UN HQ in New York and elsewhere. This chapter charts the decision-making process, at the UN and in the capitals of the coalition states, as well as the public reaction of the Iraqis to 688 and the intervention.

The Intervention Operation

There follows an account and an analysis of the humanitarian operation. The final chapter includes coverage of the coalition forces' and the aid agencies' responses to the crisis.

Part 3 Analysis

Assessments

This chapter contains analysis and assessment of the significance of the intervention operation as a legal or political precedent for subsequent operations. It also contains a military analysis of the operation.

OUTLINE CHRONOLOGY OF EVENTS

5 March	First reports of fighting between dissident Iraqis (Kurds, Shia and others) and the Iraqi army in the north and south east
21 Mar	High point of revolt in the north
25 Mar	Iraqi army counter-attack in the north begins
28 Mar	Iraqi army regains control of main towns in the north. Flight of Displaced Persons (DPs) north and east begins
5 Apr	UN Security Council adopts R 688
8 Apr	EC summit in Luxembourg; John Major proposes 'safe havens' First international military relief air-drops to DPs in mountains
19 Apr	US Marines arrive on Turkish border Coalition forces arrive in mountains and begin supervising distribution of relief to DPs
2-8 May	Coalition forces extend security zone eastwards
19 May	First deployment of UN Guards to Iraq
21 May	Coalition forces extend security zone southwards, include the (demilitarised) town of Dohuk
15 Jul	Coalition forces withdraw from northern Iraq

Part 1 - The Issues

CHAPTER 2

THE STATE OF INTERNATIONAL LAW AND THE CONSENSUS ON HUMANITARIAN INTERVENTION AT THE TIME OF THE KURDISH CRISIS

The principal 'material sources' of modern international law are 'treaty' and 'custom'. Other sources are to be found in 'general principles of law of civilised nations', judicial decisions and writings by legal experts and the declarations of international organisations. Treaty provisions are the bi-lateral and multi-lateral commitments accepted by states in formal agreements. Custom is the 'practice of states' developed, from historic 'customary rules', where patterns of accepted 'usage' by states develops into 'custom', in Brownlie's definition 'practice accepted as law'.¹ As the same authority has also noted custom depends on the repeated, consistent and uniform practice of states, accepted as law. Customary law, once established, is binding on all states, irrespective of their consent, and stands above their bi-lateral agreements. A point of law is not, therefore, recognised as a matter of 'custom' until a succession of precedents indicates an international consensus. Political precedents flow from the actions of states, the statements of government representatives and the declarations of international bodies. Legal precedents are found in the decisions of international courts or tribunals as well as the commentaries of legal experts. It follows that the 'legal' and the 'political' precedents come together to form customary law: they represent two complimentary sources, not conflicting elements. Where the legal and political precedents indicate a wide and strong consensus the action might quickly be recognised as 'custom'. Where the legal and political precedents are mixed and the consensus is limited the action may not be fully recognised as 'custom' but only as an 'emerging' principle, or something less than that. This chapter considers the legal and political issues surrounding the subject of 'intervention' in intra-state conflict at the time of the Kurdish crisis.

There is, nonetheless, evidence of a gradual shift in the international consensus towards a greater tolerance of intervention, in 'exceptional cases', over the years since the first days of the UN in 1945. But states consistently affirmed their sovereignty and independence. Questions based on the tension between sovereignty and human rights were raised - and were regularly re-considered - in the years before 1991. Did the international community have the right to intervene in the domestic affairs of a state to end mass suffering or the abuse of

¹ ICJ Statute A 38. Brownlie *Principles of Public International Law* 4th Ed (Oxford: Clarendon Press, 1990) p 5. The ICJ has frequently refined its definition of 'custom' eg in the *Rights of Passage Case* (Portugal v India 1960) to identify special regional applications of 'custom'. States and authorities often disagree over the emergence and application of 'custom' in particular cases.

human rights? Should the protection of human rights seek a 'universal' standard or should regional variations be allowed? Should that protection apply just to *individual* human rights, or should there be some guarantees for *collective* human rights as well?² Could the international community use force to impose its standards on states which failed to honour these norms ?

Having exposed the main strands of these debates the chapter concludes that, by April 1991, international opinion was already becoming more receptive to intervention, in exceptional circumstances. By the end of the PROVIDE COMFORT intervention there was, arguably, a greater confidence in intervention as one of several forms of international action which could resolve crises of this kind. These conclusions come from an assessment that previous, limited, examples of intervention to deal with transborder threats to security could become precedents justifying intervention to end mass suffering (and to protect human rights).

The themes discussed in the Chapter will be as follows:

- The development of the concept of state sovereignty in Europe since the Treaty of Westphalia (1648) and, since the 19th century, the global community of states' successive agreements to limit the use of force in international disputes.
- Intervention in the years 1945-89 and since 1989; the significance of UN mandates against *apartheid* regimes and the international community's tacit approval of the ECOMOG intervention in Liberia.
- Order versus Justice, individual and collective human rights and the place of Intervention in modern International Law.
- The Political Context of these developments in the conduct of states and the legal consensus on intervention on the eve of the Kurdish crisis.

THE EVOLUTION OF MODERN INTERNATIONAL LAW IN RESPECT OF SOVEREIGNTY, ORDER, JUSTICE AND HUMAN RIGHTS

THE ORIGINS OF MODERN INTERNATIONAL LAW AS A CONTRIBUTOR TO INTERNATIONAL PEACE

State sovereignty is a fundamental concept and one which underpins the international system. In medieval times European states recognised the supra-national authority of the Pope.³ In addition the states of Germany accorded some authority to the

² The human rights of groups of people, defined by ethnicity, race, language or religion, within states is an even more sensitive subject than individual human rights. If groups have rights those rights can be violated. If so there would be a case for external intervention to restore those rights, against the spirit of 'domestic jurisdiction'. See Page 41, below.

³ The term 'Christendom' described a European order based on a Christian value-system which underpinned the authority of medieval monarchs.

Holy Roman Emperor. The Thirty Years War (1619-1648) removed the remnant of this supra-national system. The modern concept of state sovereignty can be said to have developed by 1648, the date of the Peace of Westphalia.⁴ Thereafter European states - and in due course states in all parts of the world - claimed complete sovereignty.

In the 350 years since Westphalia states have agreed to give up some of their absolute freedoms, first to make warfare more humane⁵ and later in order to secure a more peaceful world.⁶ Finally, in the UN Charter, the member-states renounced the right to use force in all circumstances, save that of self defence against an armed attack on their territorial integrity or political independence.

In the 19th century the Great Powers developed the 'concert system' to promote the 'tranquillity of Europe': the first objective of the earlier interventions was to defeat 'revolution'. Later, leading states took action to defend threatened minorities, typically in the Ottoman territories.⁷⁸ As the international community grew with the establishment of new states in the mid-20th century it began to develop legal norms concerning 'humanitarian intervention': the despatch of forces onto the land, air space and territorial waters of another state, without the consent of that state, for an altruistic purpose.

During the first half of the 20th century wars, invasions and genocide redrew the political map of continents, destroying great

⁴ Paul Schroeder 'Historical Reality vs Neo-Realist Theory' International Security Vol 19 (Summer 1994) pp 110. Stanley Hoffmann 'The Politics and Ethics of Military Intervention' Survival Vol 37 No 4 Winter 1995-6 p 35. Charles Tilly 'Reflections on the History of European state-making' in Charles Tilly (ed) The Formation of National States in Western Europe (Princeton NJ: Princeton University Press, 1975), Introduction. Also, Gene M Lyons and Michael Mastanduno (eds.) Beyond Westphalia: National Sovereignty and Intervention (Baltimore, Johns Hopkins University Press) 1995. Jarat Chopra and Thomas G Weiss 'Sovereignty is no Longer Sacrosanct; Codifying Humanitarian Intervention' Ethics and International Affairs Vol 6 1992 p 103.

⁵ The Hague Regulations of 1899 and 1907, followed by the 1925 Geneva Protocol and the 1949 Geneva Conventions. In these treaties the contracting parties accepted the need to reduce 'unnecessary suffering' and to protect the rights of non-combatants. Although these ideas had emerged in Europe in the 17th century (above all in the writings of Hugo Grotius on *jus in bello*) this was the first time that states had agreed to be bound by principles these principles. These treaties resulted in the foundation of the International Red Cross and modern 'international humanitarian law' (IHL).

⁶ The first of these was The Kellogg-Briand Pact (1928), also known as 'The General Treaty for the Renunciation of War'. The sixty-three states which were party to the treaty abjured the use of force in settlement of disputes, irrespective of the justice of their own claims. 'The contracting parties resolved that, no matter what the nature or origin of a dispute, they would resolve it by peaceful means' Rosalyn Higgins 'Grotius and the Development of International Law in the UN period' in Hedley Bull, Benedict Kingsbury and Adam Roberts (eds.) Hugo Grotius and International Relations (Oxford: Clarendon Press, 1990) pp 269-270.

⁷ In the 19th century however there remained significant exceptions to this principle. The first was the right of states to intervene to prevent the mistreatment of their nationals abroad. This was the justification for Britain's naval bombardment of Athens in the Don Pacifico affair (1850). It was also used to justify the protection of co-religionists, such as the 'right' of the Russian czar to intervene to protect Orthodox Christians under Ottoman rule from persecution. The second general exception was to permit an intervention 'where another state mistreated its citizens in a way so far falling below the general standards recognized by civilized peoples as to shock the conscience of mankind'. (Jean-Pierre Fonteyne 'Forcible Self-Help by States to Protect Human Rights: Recent Views from the United Nations' in R Lillich (ed) Humanitarian Intervention and the United Nations (Charlottesville: University Press of Virginia, 1973) p 178.

In these cases the 'offenders' were often the Ottoman Turks: interventions onto Ottoman territories took place in Greece (1827-30), Crete (1866) Bosnia and Bulgaria (1876). After the massacres of Christians in Syria in 1860 the Great Powers authorised France to intervene.

⁸ Although the ideals of the Charter have not yet become established as the basis of a new political order they have become the basis of an emerging legal order. Sally Morphet 'Resolutions and vetoes in the UN Security Council: their relevance and significance' Review of International Studies 16 (1990), p 341.

empires and creating many new states. In 1945 the drafters of the UN Charter re-designed the 'collective security' model which had failed in the League of Nations.⁹ Whereas the 'United Nations system' is often described as 'collective security' it has many additional features. Several layers can be defined. Far from relying entirely on the whole international community's commitment to guarantee international peace and security for every state the Charter emphasises a continuing right to self-defence (in the case of actual or threatened armed attack) and recognises the contribution of 'regional arrangements'. Furthermore the Charter comes to terms with the special status of certain powerful states (the P5), recognising that collective security cannot easily be brought to bear against these states, even if they resort to forceful action. To that extent, therefore, the UN system is a modified version of 'collective security'. In this second attempt at an international 'collective security' regime the UN Security Council became responsible for maintaining international peace. The Charter armed the Council with non-forcible and forcible sanctions against those who would disturb international peace. The member-states thereby confirmed their belief in a *collective* approach to matters of peace and security. But they did not accept a collective approach to every other problem of inter-state competition¹⁰ nor did they accept a collective approach to the conduct of states' internal affairs. Addressing the individual states the Charter declared:

All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations' (A 2(4))

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. (A 51)

Addressing the United Nations itself the Charter stated:

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression, and shall make

⁹ In the 19th century however there remained significant exceptions to this principle. The first was the right of states to intervene to prevent the mistreatment of their nationals abroad. This was the justification for Britain's naval bombardment of Athens in the Don Pacifico affair (1850). It was also used to justify the protection of co-religionists, such as the 'right' of the Russian czar to intervene to protect Orthodox Christians under Ottoman rule from persecution.

The second general exception was to permit an intervention 'where another state mistreated its citizens in a way so far falling below the general standards recognized by civilized peoples as to shock the conscience of mankind'. (Jean-Pierre Fonteyne 'Forcible Self-Help by States to Protect Human Rights: Recent Views from the United Nations' in R Lillich (ed) Humanitarian Intervention and the United Nations (Charlottesville: University Press of Virginia, 1973) p 178. In these cases the 'offenders' were often the Ottoman Turks: interventions onto Ottoman territories took place in Greece (1827-30), Crete (1866) Bosnia and Bulgaria (1876). After the massacres of Christians in Syria in 1860 the Great Powers authorised France to intervene.

¹⁰ Adam Roberts and Benedict Kingsbury write of a 'UN system' bringing together the bodies created by the Charter (the General Assembly, the Security Council, the Secretariat and the International Court of Justice (ICJ), the Trusteeship Council and the Economic and Social Council (ECOSOC)), together with the 'principal organs' subsequently created by the General Assembly (such as UNICEF, UNHCR, UNDP) and the 'specialised agencies' with their own memberships and constitutions. United Nations: Divided World (Oxford: Clarendon Paperbacks, 1993) pp 4-8.

These agencies strive to protect the rights of individuals and advance economic and social welfare. Nevertheless the UN's principal task is the preservation of international peace and security.

recommendations or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain international peace and security... (A 39)

Nothing contained in the Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter but this principle shall not prejudice the application of enforcement measures under Chapter VII. (A 2(7))

The language of the Charter, seen above, clearly states that the international community represented by the UN does not claim for itself a general right to intervene in a state's domestic affairs. On the contrary it asserts the principle of non-intervention.¹⁰

1945-89 saw two overarching developments in international politics: the Cold War and the achievement of independence by many 'non-self-governing territories'. One consequence of Cold War rivalry between leading states was the deployment of their own (or surrogate) forces, onto the territory of a weak state. Lack of consensus in the UN Security Council prevented that body from taking action to prevent or reverse these acts of forcible intervention. Leading states developed 'doctrines' to justify these actions to escape the provisions of A 2(7) of the Charter. As the first of the many former colonial territories gained independence they joined with other states - often under the aegis of the Non Aligned Movement (NAM) - to demand an end to colonial rule in the remaining colonies. They also developed 'doctrine' to justify intervention by external powers to assist 'wars of national liberation' against the colonialists.¹¹ Whereas the NAM had first asserted the right of states to intervene, forcibly or by providing external support, to peoples struggling to throw off

¹⁰ But some agencies of the UN, and commissions brought into existence by them, have no such 'domestic affairs' limitation on their activities. As the member-states established these organisations by a separate vote it can be argued that they are authorised by separate treaties. Thus the organisations can, in accordance with their mandate, act to protect human rights on the territory of the member-states, if necessary without the consent of the sovereign power.

¹¹ The doctrine of 'self-determination' is discussed on pp 43-45, below.

'colonial' or 'alien' rule it later emphasised non-intervention in the internal affairs of states, especially the newly-independent states.¹²

Despite the Cold War the Security Council was able to take some positive action in the field of international security. One promising development was the Security Council's approval of UN 'peacekeeping' operations. These military activities were innovative: they were not foreseen at the UN's foundation. (The establishment of UNEF 1 in the Suez Canal zone in 1956 - the first 'UN peacekeeping operation' - was the result of a proposal made by Secretary-General Dag Hammarskjöld.) Since the 1960s, however, 'peacekeeping' operations have played an important part in the peaceful resolution of international disputes. The essential features of 'peacekeeping' are consent, impartiality and the use of force only in self defence. Activities of UN peacekeeping forces have included monitoring cease-fires, supervising elections and assisting international relief work.¹³ 'UN peacekeeping' amounts to a 'non-judgmental' approach to conflict resolution.

At the end of the Cold War in 1989 the Security Council was able to find a new consensus and appeared to be ready to taken on the role assigned to it in the Charter.

¹² An example of this principle of non-intervention concerns the sensitive point of state borders. The now-universal rule is *uti possidetis*, the concept that state borders should only be changed by agreement, not by force.

¹³ It is important to recognise the limitations on the purview and powers of the Security Council. The Charter requires it to concern itself with threats to international peace and security. Even within that mandate it is not permitted to take any action which is inconsistent with 'the principles and purposes the United Nations' as defined in the Charter and (more generally) by the expressed wishes of the international community as found in the resolutions of the General Assembly. Nor is it empowered to extend its purview - to create a new jurisdiction - beyond its duty to deal with threats to international peace, nor to impose itself upon states where an international threat does not exist. The Security Council is, therefore, a body authorised to preserve *peace*; it is not authorised to recreate the international system in accordance with any concept of *justice*. Hence the debate during consideration of draft R 688 over the jurisdiction of the Council to discuss and act upon events inside a state.

Some UN activities, first seen in peacekeeping operations, have been the focus of a wider debate within the UN over the jurisdiction of the Security Council. Briefly the US and the UK have sought to widen the purview of the Council - and with it their privileged position as permanent members - from action arising directly from threats to international peace to general support for and a large group of non-permanent members have resisted these proposals. The Non Aligned states occasionally criticise the Security Council, and the permanent members in particular, for seeking to extend the definition of 'international peace and security' (and thereby the Council's area of exclusive action). These accusations oppose the claim that the Security Council has the right to consider wider threats to 'security' such as the narcotics trade. There was also opposition to the Council's past attempts to authorise election monitoring and scrutiny of the observance of human rights (where there is no UN peacekeeping mission). Opponents of the widening of the Council's purview went on to argue that it may only institute human rights monitoring when it has determined (under A 39) that the situation is a threat to international peace. In other circumstances human rights activities are in the domain of the General Assembly.

ORDER AND JUSTICE

The states' willingness to accept legal constraints on their right to use force in pursuit of their interests arose out of a desire for peace. But the signatories of the UN Charter consented to this restriction on the assurance that matters of 'domestic jurisdiction' would not be subject to international purview. The residual rights of sovereignty - self defence and inviolable domestic jurisdiction - therefore became the bedrock of sovereignty.

The international community, however, soon turned to consider the issues of 'justice'. Before long the UN member-states came under pressure to modify the *domaine réservé* of 'domestic jurisdiction' to allow intervention in pursuit of 'self-determination'.

For the first time since 1648 a new set of 'universal' values - concerned with human rights - would challenge the supremacy of state sovereignty. The role of the United Nations in developing respect for human rights is at the centre of yet another debate, however. The Charter refers separately to the *affirmation*, the *promotion*, and the *observance*, of human rights. The Charter does not give a coherent guide to UN action in this field. It is vague about the way ahead: should the organisation actively enlarge and expand the code of human rights or should it merely defend a basic list of human rights? In the Preamble the members 'reaffirm faith in human rights'. In A 1(3) they are 'promoting and encouraging respect for human rights and [developing a further concept] for fundamental freedoms for all'. The Charter presents, but does not define, a distinction between 'rights' and 'freedoms'. In A 13(1b) the General Assembly has the duty of 'assisting in the realisation of human rights and fundamental freedoms'. In A 55 this has become 'respect for the principles of equal rights and self-determination of peoples' and (A 55b) 'respect for and observance of human rights and fundamental freedoms'. In A 62(2) ECOSOC is required to make recommendations 'promoting respect for, and the observance of, human rights and fundamental freedoms'. A 68 refers to the 'promotion of human rights'. The Trusteeship system has as one of its

basic objectives 'to encourage respect for human rights and for fundamental freedoms for all' (A 76c). The variety of terms used in the treatment of human rights in the Charter suggests uncertainty, or deliberate obscurity. The Charter did make clear however, the duty of the General Assembly to debate and declare its opinion on matters of human rights.

In seeking to promote individual human rights as well as international peace the UN Charter created a powerful contradiction: the idea that a single legal regime might guarantee the sovereign rights of states and simultaneously protect the citizen from the abuse of state power. Various UN bodies have, nonetheless, sought to make progress in the protection of human rights, notwithstanding the contradictions. See, for example, ECOSOC Resolution 1503 which allows individuals (or, more likely) NGOs to publicise and seek redress for human rights abuses.

The Charter fails to specify the UN's responsibilities in the field of *individual* rights. It says nothing, however, about the *collective* rights of peoples or groups. Collective rights are even more divisive and controversial than individual rights. Many states will tolerate statements of individual rights but will resist any attempt to define collective rights.

The conflict between the relative priorities of sovereignty and human rights is noted by all commentators on the work and status of the UN today. The clear intention of the founding conference of the UN, as shown in the record - the San Francisco *travaux preparatoires* - make it clear that questions of sovereignty and human rights (in so far as the latter were regarded as important *operational* objectives in those days) were at all times subordinate to the interests of international peace and security. Furthermore, as the Security Council debate on draft R 688 shows, states are loath to abandon the legal protections of domestic jurisdiction. This applies especially when threats to international peace are defined in an 'elastic' way, as they were in the Kurdish crisis of 1991.

GENERAL PRINCIPLES OF INTERNATIONAL LAW IN THE FIELD OF INTERNATIONAL PEACE AND SECURITY

The UN Charter, signed by the 52 founder member states in 1945, gave the General Assembly the right to debate and develop the principles of state conduct.¹⁴ Although the Charter gave the Security Council the exclusive right to debate and determine questions on threats to international peace and security¹⁵ the General Assembly has acted on its own mandate to make declarations on inter-state conduct. General Assembly declarations are, for example, regularly quoted in ICJ judgments.¹⁶

The General Assembly's work in this field is also carried forward by conferences. The conflict between sovereignty and human rights came to a head in the Conference on Human Rights in Vienna in 1993. As a result of this activity over time there is a still-growing body of international law, based on custom and treaty, which can be summarised as follows:

- The first principle is that of sovereignty¹⁷ and equality.¹⁸ Respect for sovereignty and equality requires that there should be no intervention into the affairs of sovereign states.¹⁹ The General Assembly has

¹⁴ The UN was and is however, principally an institution of inter-state relations. Although it has admitted some non-state organisations as observers or in associate membership its approach to peace and security is one which recognises above all the rights and duties of states, rather than those of peoples, races or organisations.

¹⁵ The 'Uniting For Peace' General Assembly declaration [GA R 377] 1950 established an exception to this rule. The Security Council accepted the right of the General Assembly to debate peace and security crises where the Security Council was unable itself to take action. See M Shaw International Law (3rd Ed) Grotius, Cambridge, 1991 p 712-3.

¹⁶ ICJ judgments are only binding on the parties in the case. They are authoritative, however, as interpretations of the law and are influential in the framing of subsequent Security Council resolutions. They often draw on General Assembly resolutions as statements of customary law.

¹⁷ A 2(7).

¹⁸ Antonio Cassese 'International Law in a Divided World' Clarendon, Oxford 1986 p 129 :

'Of the various fundamental principles regulating international relations, this is unquestionably the only one on which there is unqualified agreement, and the support of all groups of States, irrespective of ideologies, political leanings, and circumstances. All states agree upon both the crucial importance of the principle and its basic contents. The conclusion is therefore warranted that sovereign equality constitutes the lynchpin of the whole body of legal standards, the fundamental premise on which all international relations rests.'

Jost Delbruck 'A Fresh Look at Humanitarian Intervention Under the Authority of the United Nations' 67 Indiana LJ (1992) p 889:

'The principle of nonintervention is deeply enshrined in general international law. It has its legal basis and legal policy foundations in the principles of sovereignty and equality of states, the constitutive elements of the international legal order.'

¹⁹ In the last 30 years the UN's member-states have argued for the recognition of a legal right for a 'people' to determine its own political future. This pressure came in the form of pressure for

asserted this principle in a succession of declarations.²⁰ Other international organisations have adopted similar statements.²¹

- A second principle is that of self-defence. If state sovereignty is a key principle of modern international relations then it follows that first amongst the sovereign rights is self-defence.²²
- A third principle is that of self-determination. In the case of people living under colonial or alien rule there is a significant body of customary law

peoples 'under colonial rule' and has been interpreted restrictively: states have declared themselves in favour of a general right of self-determination, not a right of succession. Indeed the states which have most vigorously advanced 'self-determination' on behalf of peoples under colonial (or 'alien') rule have been the first to deny that right to peoples seeking to throw off the control of a non-colonial government. These separatist elements are often made up of linguistic-cultural populations which form a minority in a state with 'colonial' borders. Today, in the post-colonial world, the principle of self determination has become a threat to the unity of many newly-independent states. These states struggle to achieve national unity in the face of a threat of fragmentation due to the ethnic diversity of their populations. So practice has tended towards the limitation rather than extension of the application of self-determination. The emphasis on self-determination has been in part replaced by the importance given to non-intervention and the permanence of existing state borders. This principle of non-intervention has been adopted by most regional organisations.

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- 'The Declaration on the Inadmissibility of Intervention and Interference in the Domestic Affairs of States and the Protection of their Independence and Sovereignty' GA R 2131 (XX) December 1965.
 - 'The Declaration on the Principles of Friendly Relations and Cooperation Among States in Accordance with Principles of the Charter of the United Nations' GA R 2625 (XXV) 24 October 1970.

The eighth perambular paragraph reads:

'the practice of any form of intervention not only violates the spirit and letter of the Charter but also leads to the creation of situations which threaten international peace and security.'

- 'The Declarations and Principles of International Law on the Relations and Cooperation among States In Accordance with the Charter of the United Nations' (1970)
- 'Consensus Definition of Aggression' (UN GA R 3314 (XXIX) (1974)

A 3(a):

'The invasion or attack by the armed forces of a State on the territory of another State, or any military occupation, however temporary, resulting from such an invasion or attack ...'

These resolutions state that international order is based on two principles: the territorial integrity of states (and the rights that flow from it) and the right of self-determination of peoples (under alien or colonial rule). The 'non-intervention' rule would only be applied to states 'conducting themselves in compliance with the principle of equal rights and self-determination.'

Specifically the Declaration on Granting Independence (GA R 1514) stated that support for peoples in their struggle for self-determination did not offend the 'non-intervention' principle of the UN Charter. GA R 1514 identified, *inter alia*, the colony Southern Rhodesia [pre-UDI] was declared to be 'non-self-governing' within the meaning of the Declaration.

- 21 The charter of the OAS states:

'No state or group of states has the right to intervene, directly or indirectly, for any reason whatsoever, in the internal or external affairs of any state.' (A 15.)

Identical language is to be found in the 'Declarations and Principles of International Law Concerning Friendly relations between States in Accordance with the Charter of the United Nations'.

The Charter of the OAU (a 3), for example, lays emphasis on the importance of non-intervention and forbids the alteration of frontiers of any member-state except by agreement of all parties concerned.

The OSCE also affirms this principle.

²² In modern international law this was affirmed by the '*Corfu Channel* case' (ICJ Reports 1949, p 4 : 16 ILR p 155). More controversial however is the alleged right of a state under attack to call for assistance from its neighbour. It is accepted that a state under armed attack may call for armed assistance from a third party, but does this 'right' extend to the call of a government for assistance in putting down a revolt? If the revolt is in the nature of a separatist uprising would not such assistance amount to denial of the self-determination of the dissident population ? In the '*Nicaragua*' case the ICJ gave important rulings on the application of the principle of self defence. It ruled on the right of a dissident group engaged in a civil war against its government to obtain military assistance from a foreign power. It did not, however, define the limits of this right. 'Case Concerning Border and Transborder Armed Actions' {*Nicaragua v Honduras (ex parte USA)*} (Merits) ICJ Reports 14 1986.

justifying the people's efforts of to resist the government - and receive assistance from states - using force if necessary.

'Self-determination' is a principle which gained acceptance only in the 20th century. President Woodrow Wilson favoured the greater political rights for minorities in the old European empires. He did, nevertheless accept that the concept which came to be known as 'self-determination' was subordinate to that of sovereignty. Self-determination was not written into the Covenant of the League however, nor was it recognised by the first Committee of Jurists assembled to adjudicate for the League.

Positive international law does not recognise the right of national groups, as such, to separate themselves from the State from which they form a part by the simple expression of that wish.²²

Self-determination was not included in the UN Universal Declaration on Human Rights (1948). It is mentioned twice in the Charter (A 55) but only in the contexts of developing 'friendly relations between states' and promoting 'equal rights of peoples'. Its origin, in the US system, lies in a series of General Assembly resolutions, beginning with the 'Declaration on Granting Independence to Colonial Countries and Peoples' (1960). The two UN Covenants on Human Rights, approved by the General Assembly in 1966, *inter alia* reaffirmed this principle.²³

The UN General Assembly has often been criticised for adopting double standards over 'self-determination'. On the one hand it called for pressure on the racist regimes of southern Africa, and on Israel for its occupation of the territories captured in the 1967 war. On the other hand it published a succession of

²² 'Report by the Committee of Jurists Entrusted by the Council of the League of Nations with the Task of Giving an Advisory Opinion on the Legal Aspects of the *Aaland Island Question*' quoted by Hurst Hannum in Autonomy, Sovereignty and Self-Determination: The Accommodation of Conflicting Rights (Philadelphia: University of Pennsylvania Press, 1960) p 61.

²³ The International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights share two identical articles: the affirmation of self-determination (A 1 in each case) and an assurance that the Covenant provisions 'in no way impair the provisions of the Charter' (A 24 and 46 respectively.)

declarations in the 1960s and 1970s affirming the principle of non-intervention. The apparent contradiction is relieved, if not explained, by the definition of self-determination as 'freedom from colonial or alien rule'. The right does not encourage minorities in states to achieve separatism but only to remove the subjugation of peoples by foreigners. Hence colonies ruled by Western states and territories detached by force from their parent state, offended the principle of self-determination. Likewise racist regimes holding indigenous people in a form of slavery also offended against 'self-determination'. The principle offers no standard of 'good government'; it merely states that authority should lie with local people, not with aliens.

Self-determination is concerned with a change in sovereign status, and not with how sovereignty is exercised thereafter.²⁴

Michael Walzer makes the same point, quoting John Stuart Mill:

For self-determination and political freedom are not equivalent terms A State is self-determining even if its citizens struggle and fail to establish free institutions, but it is deprived of self-determination if such institutions are established by an intrusive neighbour.²⁵

Supporters of 'self-determination' see no conflict with the principle of 'non-intervention in the domestic jurisdiction of States' as most of the territories concerned are not sovereign states but colonies or other non-self-governing (or 'occupied') territories.

The 'self-determination' debate does not rest there, however. In recent crises the international community has been divided over the conflicting rights of minorities and majorities in intra-state conflicts. Should the international community allow the self-determination of minorities and irredentist pressures from neighbours? Or should it respect the rights of

²⁴ Harold S Johnson Self-Determination Within the Community of Nations (Leyden: AW Sijthoff, 1967).

²⁵ Walzer Just and Unjust Wars p 87.

states to suppress minority dissent? Western states have, for the most part, favoured multi-ethnicity as a conservative formula as this tends to uphold the status quo. Others have seen advantage in partitions and population exchanges to bring an end to long-standing quarrels between ethnic groups within states.

And when the cause of a civil conflict, or the failure of a state, is ethnic or religious strife, despite the ritual and quasi-universal commitment to 'the people's right to self-determination' deep divisions exist between those who believe this norm must lead to borders based on ethnic or religious demarcation lines, and those who think that formulas of 'con-socio-nationalism' or federalism ... might save multi-ethnic societies. Discussions in the Contact Group about the future of Bosnia have been marked by acrobatic attempts at reconciling these conflicting points of view.²⁶

Rosalyn Higgins²⁷ has recently drawn attention to the common misunderstandings on international law and 'self-determination'. Tracing the development of law in this field from the conservative provisions of the UN Charter through the resolutions of the General Assembly and ICJ judgements she goes on to discuss the contrasting rights under A 1 and A 27 of the International Covenant on Civil and Political Rights. The weight of international law supports the self-determination of 'peoples' (from alien rule). But the Political and Human Rights Commission, acting as the body charged with enforcing the Covenant, has in recent judgements, drawn an important distinction between *minorities* and *peoples*. Briefly, it has refused to support the claims of minorities to secede. Minorities *per se* have certain rights but these do not include an automatic right of secession on the grounds of self-determination alone. There are two important exceptions to this rule. Where a minority is the target of systematic persecution by the majority it may claim that secession is the only means of relief from that persecution. Second, indigenous peoples are in the process of claiming that theirs is a special situation:

²⁶ Stanley Hoffmann 'Clash ?' p 47.

²⁷ Rosalyn Higgins Problems and Process: International Law and How We Use it (Oxford: Clarendon Press, 1994). Chapter 7.

they claim a right to autonomous institutions if that is necessary to preserve their cultural identity. This claim is a matter of debate in the drafting of the UN Declaration on Indigenous Rights.

- A fourth principle is the prohibition on the use of force by states, except in highly restrictive circumstances.
- A further set of principles addresses the rights of the citizen against mistreatment by his own government: the right to live in peace, under just laws, in a clean environment, free from the threat of persecution. But these 'rights' are listed as aspirations: they are not yet widely accepted as rights. Indeed the idea that any individual right might be 'universal' is profoundly controversial. (The pressure for groups within states to have their collective rights respected is even more controversial.)

There is, furthermore, no consensus on the rights of minorities (even oppressed minorities) to struggle for independence. These 'collective rights of minorities' are even more sensitive to international opinion than proposals for a right of 'intervention'. These issues are in the arena of 'human rights' and have not been fully absorbed into international law.²⁸ Although most people would agree that regimes of law should protect individuals from abuses states do not seem ready to adopt laws which will guarantee these rights. Despite the UN General Assembly's adoption of 'The Universal Declaration on Human Rights' (1948) and other international conventions (e.g. those prohibiting genocide and slavery) which are considered to express 'customary law', human rights remains, for the present, more a political than a legal issue. States show more interest in promoting stability and order rather than individual rights. The history of the nation state, after all, shows that the achievement (or imposition) of order has usually taken priority over concerns for civil liberties. Indeed there are many who would argue

²⁷ Rosalyn Higgins Problems and Process: International Law and How We Use it (Oxford: Clarendon Press, 1994). Chapter 7.

²⁸ Allen Buchanan Secession: the Morality of Political Divorce from Fort Sumter to Lithuania and Quebec (Boulder: Westview, 1991).

that order in society is itself its greatest blessing and that civil liberties are a desirable consequence of order, but cannot precede it. Furthermore there is no consensus on the outer limits of 'civil liberties', for example the question of a 'right' of good governance, or more controversial still, a right to be ruled under a genuinely 'representative' or democratic, government. Finally there is no consensus on the rights of 'peoples' or ethnic groups to enjoy collective rights beyond those which they deserve to enjoy as individuals.

Allen Buchanan is one of the only scholars recently to have published a study of secession, focused on the moral and political problems associated with dissident minorities inside states. He has formulated a "moral framework" from a liberal standpoint. Buchanan proposes that a right of secession should exist if the physical safety, or cultural identity, of the group is the target of sustained, governmental repression or the violent actions of "loyalist" groups. He warns, however, that plebiscites and referenda may give a false picture in the many cases where the demographic mix has been deliberately altered, by colonisation or forced resettlement, to establish "loyal" groups who will oppose secession. (The ethnic Russian population which now exists in Latvia is an example.) Even if this putative right to secede is accepted the right or duty for other states or organisations to assist would-be secessionists is yet another step. Whereas this moral debate is of interest - and may in time become the basis of international practice - it remains the case that secession is at best a moral right, not a political right recognised by international law.

INTERVENTION, IN THEORY AND PRACTICE, 1945-1989 AND SINCE 1989

International politics in the period 1945-1989 (the period of the Cold War) was dominated by superpower rivalry. Despite a number of famous crises, however, the superpower blocs did not engage each other in warfare, indeed their relationship showed many elements of cooperation on fundamentals, especially after the Cuban Missile Crisis of 1962. The period saw smaller wars

nonetheless: wars between states as well as civil wars. Some of these wars involved 'unilateral' intervention by one or more outside powers, sometimes by the leading states.²⁹ Some of these interventions were clearly motivated by national interest; others by an element of 'humanitarianism'.³⁰ The United Nations has often condemned aggression and, on occasion, authorised action or taken action itself, against aggressors (in Korea 1950 and in the Gulf War 1991). The international community has, on the other hand, frequently given silent consent to interventions, even when it has been clear that the intervening states were acting from motives of old fashioned power politics. The international community has only been prepared to give explicit approval to interventions clearly motivated by humanitarianism. Some examples of interventions which occurred before the Kurdish crisis in 1991, are:

India into East Pakistan (later Bangladesh) 1971,
Vietnam into Cambodia 1978,
Tanzania into Uganda 1979,
US into Panama 1989,
The ECOWAS states into Liberia 1990.

In these cases the intervention was 'unilateral', that is, not given prior authorisation by the UN Security Council. As Christopher Greenwood³¹ has pointed out the intervening states customarily cited 'self-defence'³² as their justification for intervention, even when the sufferings of whole populations were clearly visible. International public opinion began to demand improvements in civil rights inside many states and was

²⁹ Stanley Hoffmann reminds us that 'the issue of intervention in domestic affairs was central during the Cold War.' Hoffmann 'Clash ?' p 30.

³⁰ Humanitarianism is a word which is found in many UN resolutions and statements by government spokesmen. It has two distinct meanings, however. Sometimes it is unclear which applies. Humanitarian acts can mean 'acts designed to promote the physical well-being of people' or it can mean 'to promote individuals' human rights and freedoms'.

³¹ 'In each case [India, Tanzania and Vietnam] the intervening state and its supporters rested their case primarily on the right of self-defence'. Christopher Greenwood 'Is there a right of humanitarian intervention ?' The World Today February 1993 p 35.

An interesting discrepancy exists, however, in the justification presented by India. As Michael Akehurst has pointed out the verbatim record of the Security Council debate on the Indian intervention shows that India's case contained a 'human rights' argument, as well as a 'self-defence' argument. When the formal record was published, however, the 'human rights' argument had been excised from the text. Akehurst comments that the text was changed because India realised that human rights would not be an acceptable justification for the action taken. M Akehurst 'The Use of Force to protect Nationals Abroad' International Relations Vol 5 (1977) p 11.

³² ECOWAS justified its intervention on humanitarian and on self-defence grounds. E Emmanuel 'Peacekeeping' Africa Forum Vol 1 No 1 1991 p 27 quoted in Comfort Ero Subregional Peacekeeping and Conflict Management: The Liberian Civil War UN and Conflict Programme, UNA, 5 Whitehall Court, London, April 1995 p 11. See discussion of the Liberia intervention below.

showing increasing sympathy for people suffering repression, such as the Jews in the USSR. There was increasing interest, especially in the West, in the wider cause of human rights as an issue in international politics. The preservation of sovereignty and the advancement of human rights were in many cases in conflict.

There were also 'humanitarian' interventions by the UN itself, during the period 1945-89. In the 1960s the UN took Chapter VII enforcement action against South Africa and Southern Rhodesia in order to pressure the two territories - one a state, and the other a UK crown colony - to abandon the policies of segregation and minority rule.

Space precludes a detailed examination of each of these cases. Instead two representative cases will be taken in order to show the development of 'humanitarian intervention' prior to the Kurdish crisis of 1991.

Humanitarian Intervention by the UN - South Africa and Southern Rhodesia³³

In the 1950s and 60s former colonies achieved independence and became member-states of the UN. They developed a strong 'anti-colonial' group within the General Assembly. The *apartheid* regime in South Africa was the main target for 'anti-colonial' action in the UN, in the Commonwealth as elsewhere, in the post World War 2 period. In due course many of these states came together in the Non Aligned Movement (NAM), a large group with a broad agenda which included 'anti-colonial' issues.

But there were other targets than South Africa itself. Furthermore the 'colonial' formula was expanded to cover 'non-self governing' territories in order to include not only colonies but also anomalous 'alien rule' regimes such as Southern Rhodesia after UDI. Later still the formula would cover 'occupied territories', in particular the areas of Palestine which were occupied by the Israelis after the 1967 war.

³³ R 417 and 418 (October and November 1977).

Whereas the protest against South Africa was the first multi-national campaign conducted in the UN, the action against Southern Rhodesia involved stronger measures. In the 1960s South Africa was a strong state with a mixed economy. Its strength commanded a significant measure of international support, even if that support was often covert. Southern Rhodesia, on the other hand, was a land-locked territory with a largely-agricultural economy. It was seen as a more promising target for economic sanctions than South Africa.

The pressure exerted by the newly-independent (and other Non Aligned) states for 'anti-colonial' action at the UN has been described above. Whereas South Africa was the main target it was a strong state with a well-developed economy and with ready access to world trade outlets. The UDI Southern Rhodesia regime was seen as a more vulnerable and thus became the first target for international pressure.

UN sanctions against Southern Rhodesia(SR) were the most severe and comprehensive to date.³⁴ Over the 11 years following the declaration of UDI in 1965 a succession of Security Council resolutions prohibited the import of all materials originating from SR, the sale or supply of all materials to customers in SR and the use of ships and aircraft for trade with SR. Furthermore the resolutions demanded that all member states withhold financial deposits and deny investment funds for the development of business in SR. Finally the resolutions required member states' airlines not to call at SR airports nor to provide facilities in connecting flights for SR passengers, and insurance for such flights.

Before the Gulf Crisis of 1990-1 UN economic sanctions, imposed under A 41, normally required member states to take action in respect of their own trade with the territory under sanction. They did not authorise action 'involving the use of armed force³⁵' or any actions outside their own territories. The action the UN

³⁴ These sanctions were only exceeded in severity by the measures imposed on Iraq 1990-1 in a succession of Security Council resolutions culminating in R 687.

³⁵ A 41.

authorised against SR went further. In SC R 221 (1966), the Council recalled an earlier 'finding' under A 39³⁶ and then called on all states to 'ensure the diversion of any of their vessels ... carrying oil destined for Southern Rhodesia' but also authorised the UK specifically, to 'prevent, by the use of force if necessary, the arrival in Beira of vessels [whatever their nationality] believed to be carrying oil destined for Southern Rhodesia.' On one occasion a Royal Navy warship fired warning shots at an oil tanker which had refused to obey signals to stop and submit to a search. (In the case of Iraq in 1990 R 665 followed this precedent when it authorised member states' maritime forces 'to halt inward and outward maritime shipping in order to inspect and verify their cargoes'.³⁷) So R 221 created a precedent for the *forcible* imposition of economic sanctions, a precedent which was followed in R 661. Member states were in these cases authorised not just to restrict their own trade with defaulter states but also to prevent illegal trade carried out by other nations' shipping. The mandate to the UK specified that armed force might be used against sanctions-breakers.

The development of more intrusive and forceful sanctions against Southern Rhodesia in the years following UDI prepared the way for even more severe treatment of South Africa in the late 1970s. From 1960 (the Sharpeville massacre) to 1977 various UN organs had repeatedly condemned minority rule, *apartheid* and all the repressive actions of the South African state. By the late 1970s South Africa had been the target of UN economic sanctions. The sanctions regime had started with an embargo on the supply of arms and related *materiel*.³⁸ In 1977, however, R 418 of 4 November, observed that the abuse of human rights in South Africa represented a threat to international peace and

³⁶ The earlier SCR had identified the South African regime as 'alien rule' and as such to be a threat to international peace. It was only in 1970 that a subsequent SCR extended the 'threat to international peace' formula to colonial rule, in R 289.

³⁷ R 221 was in fact the basis of the R 661 draft considered by the Security Council during the Gulf Crisis. Freedman and Karsh p 83. But it was not until R 794, adopted in 1992, that the Security Council first authorised Chapter VII enforcement action, inside the state concerned, including the use of force on the basis of 'internal conditions' alone. See H McCoubrey and ND White International Law and Armed Conflict (London: Dartmouth, 1992) p 24.

³⁸ Similar embargoes were imposed in Libya, Somalia and the Federal Republic of Yugoslavia (ie Serbia) at other times. In the case of Libya the further embargoes involved the supply of aircraft and aircraft spares and the prohibition on civil air traffic to and from Libya. States were also required to reduce their diplomatic representation to and from Libya.

security and justified forcible action by the international community to terminate those abuses. The target was South Africa. This resolution recalled another resolution (adopted earlier in the year) which had for the first time identified a threat to international peace arising from the actions of the government. It was the import of arms from abroad which, in the determination of the Council, internationalised the situation. In R 417 (31 October) the Council expanded its 'threat to international peace' decision when it noted the 'torture of political prisoners and the deaths of political detainees as well as the mounting wave of repression against individuals, organisations and news media' in South Africa. It also identified a threat to international peace and security in that 'the violence and repression by the South African racist regime have greatly aggravated the [regional] situation and will certainly lead to violent conflict and racial conflagration with serious international repercussions'. Although the Council might have cited the recent cross-border military operations of the South African armed forces (into Mozambique), and the continual in- and ex-filtration of armed groups from neighboring states, the preambles of R 417 and 418 make no mention of this. The implication is that the Council, for the first time, saw a threat to international peace and security in the region as arising solely from the repression of human rights inside South Africa, and not from the cross-border military incidents. Rodley comments as follows:

As an abstract proposition, if a human rights situation can amount to a threat to international peace and security, thus permitting the Council to take enforcement action to remedy the situation, there is nothing in A 2(7) restricting the enforcement action to measures short of the use of force.³⁹

The exceptional actions of the Security Council with respect to South Africa, and less obviously to Southern Rhodesia, backed by the 'self-determination declarations' of the General Assembly, opened the way

³⁹ Rodley p 28.

for a development of a new 'interventionist' path for international law.⁴⁰

Rs 221, 417 and 418 therefore established a precedent for the Security Council to take enforcement action in cases of mass abuse of human rights inside a state, even when there is no separate threat to international peace and security. The discussion [below] of the legal issues underpinning the debate and formulation of R 688 in 1991 will refer to the precedent set by Rs 221, 417 and 418.

Unilateral Humanitarian Intervention by a state or states - Liberia⁴¹

In August 1990 the situation in Liberia was a matter of international concern. The civil war - which had begun the previous year - was degenerating into widespread tribal conflict. As a result many people fled as refugees over the borders.⁴² The head of state, President Doe, appealed for military intervention to deal with the situation. At the time of the appeal Doe had lost control. He was a virtual prisoner, trapped in the presidential palace, while the various warring factions controlled the rest of the country.

On 6-7 August 1990 Standing Mediation Committee of the Economic Cooperation Organisation of the West African States (ECOWAS) decided to send an intervention force to Liberia. Days later the decision was confirmed when it was announced that Doe's opponents had murdered 1000

⁴⁰ Security Council action to bear down on *apartheid* did not involve the use of force in every case. Namibia, or South West Africa, has also been the focus of Security Council action in accordance with the principle of 'self-determination'. Whereas the Council did take action to terminate the 'illegal' South African rule in Namibia it did not take forcible action in that regard. It is not therefore an example of 'intervention' in this context.

⁴¹ Main sources on the ECOWAS intervention are: W Ouatey-Kodjoe 'Regional Organisations and the Resolution of Internal Conflict; The Ecowas Intervention in Liberia' International Peacekeeping 1994 pp 261-302, C Scott, L Minear and TG Weiss Humanitarian Action and Security in Liberia: 1989-1994 (Thomas J Watson Institute for International Studies, Occasional Paper No 20 1995, K O Kufuor 'The Legality of the Intervention in the Liberian Civil War by the Economic Community of West African States' in African Journal of International and Comparative Law Vol 5 No 3, p 526, VP Nanda 'Tragedies in Northern Iraq, Liberia, Yugoslavia and Haiti - Revisiting the Validity of Humanitarian Intervention Under International Law' Denver Journal of International Law and Policy Vol 20 (1992), p 305. On the failure of economic sanctions in this case see N Schriver 'The Use of Economic Sanctions by the United National Security Council: an International Law Perspective' in HG Post (ed) International Economic Law and Armed Conflict (Netherlands: Martinus Nijhoff Publications, 1993) p 123.

⁴² By October 1990 there were 600,000 Liberian refugees in neighbouring states. UNHCR, Cote d'Ivoire, reported in Africa Research Bulletin 1-31 October 1990.

Nigerians who had taken refuge in their country's embassy in the capital, Monrovia, on 8 August.

Early in September, soon after giving his consent to the intervention, Doe was murdered by supporters of 'Prince' Johnson, the leader of one of the factions.

The force, ECOMOG, arrived in Liberia in November 1990. The troops were immediately attacked by forces of Charles Taylor's NPFL faction. ECOWAS changed the mandate from peacekeeping to peace enforcement. ECOMOG then imposed its authority over the area around Monrovia. Later it reverted to peacekeeping activities.

ECOMOG eventually achieved a cease-fire in November 1992 and restored a measure of public safety in and around the capital. It began the task of mediation in the conflict and supervised the installation of a new government. The Lomé agreement did not end the humanitarian crisis nor the civil war. Fighting resumed and further mediation attempts took place. The UN Security Council made no comment on ECOMOG until 19 November 1992, two years after the first deployment into Liberia. The retrospective endorsement came in the text of SCR 788 which launched the UNOMIL peacekeeping mission. The resolution set out the Council's approach to monitoring of the cease fire and the continuation of the mediation process.

ECOMOG called its intervention an act of 'collective self-defence' justified by the 'transborder effects' on neighbouring states:

General Erskine of ECOMOG stated that "with the crisis in Liberia creating unbearable refugee problems for Sierra Leone, Ghana, the Gambia, Guinea, Nigeria and the Ivory Coast it is obvious that the situation in Liberia has gone beyond the boundaries of that country and ceases to be an exclusive Liberian question."

It also cited a humanitarian motive:

Second the decision of the West African leaders to get involved was said to be humanitarian. In its Final Communiqué the Standing Committee gave a strong rationale for its decisions, adding that "presently there is in Liberia a government which

cannot govern and contending factions which are holding the entire population hostage, depriving them of food, health facilities and other basic necessities of life."⁴³

Despite these public statements it is clear that political rivalries between the leaders of neighbouring states played some part in the decision to intervene, and in the protests from the neighbouring states which opposed the intervention. Togo and Burkino Faso, also members of ECOWAS, opposed the intervention publicly. Cote d'Ivoire is also believed to have protested privately. The opponents of intervention saw the action as self-interested, a ploy by Nigeria (and its supporting Anglophone states) to maintain its influence over Liberia. (On deployment Nigeria supplied 90% of the ECOMOG forces. The commander was Ghanaian.) Doe certainly appears to have been Babangida's protégé and an ally in Nigeria's claim to leadership of the sub-region. Ero is satisfied that the real reason for the intervention was neither self-defence nor humanitarianism: it was the Nigerian military regime's determination to prevent Charles Taylor and his NPFL from seizing power.

The legality of the intervention has been the subject of much debate. The quality of the consent given, the preference given to one faction over another, the enforcement measures taken without reference to the Security Council, all of these legal defects have been noted. But these objections have been restricted to the academic community. The international community's reaction concentrated on the practical results, not the legal implications.

Briefly, the legal objections to ECOMOG's mission rest on two issues.⁴⁴ First, ECOMOG's operation disregarded

⁴³ Marc Weller (ed) Cambridge International Documents (Cambridge: Grotius, Cambridge University Press, 1994) 'Regional Peace-keeping and International Enforcement: The Liberian Crisis', 'Document 54' p 72, quoted in Comfort Ero Subregional Peacekeeping and Conflict Management: The Liberian Civil War (London: UN and Conflict programme, UNA) 1995 p 11.

⁴⁴ There is a further area of dispute over the legality of ECOMOG's action in Liberia. It is, however, a technicality which has so far prove to be of interest only to academic lawyers. For completeness sake a short reference is added below.

ECOWAS is an *economic* grouping of states, with a minimal mandate for mediation of bi-lateral disputes between members-states but no *comprehensive* mandate for crisis-management, even when the additional protocols to its Charter are taken into account.. According to this line of argument the operation was defective because the organisation was acting *ultra vires*. Despite the various protocols adopted after the Charter came

the two principle canons of traditional peacekeeping: 'consent' from the sovereign power and 'impartiality' between warring factions. ECOMOG had not secured the prior consent of a competent government (nor the consent of all the significant factions⁴⁵). President Doe had ceased to be the effective ruler of Liberia by the time he issued the invitation to external forces to intervene. In any case his regime had totally collapsed - and he himself had been murdered - before the ECOMOG troops arrived in Liberia. ECOMOG's operation also appears to have failed the test of impartiality: it consistently opposed the NPFL. Finally Security Council approval for the enforcement elements of ECOMOG's action was neither sought nor granted.⁴⁶

It appears that the international community was prepared to see a multinational coalition intervene, on its own authority and in accordance with its members' collective right of self defence, to address an urgent, mass humanitarian need. Furthermore it is important to note that the ECOMOG operation was the first time the international community had looked favourably on an intervention into the territory of a developing state where there was no element of 'alien rule' or colonialism. Previously in the UN era Non Aligned states had approved intervention only in order to further the cause of 'self-determination'.

The international community's acceptance of ECOWAS' action - and its eventual endorsement of the operation⁴⁷

into force ECOWAS' mandate from its member-states was predominantly economic. The 'Protocol of Non-Aggression' was adopted at ECOWAS third heads-of-state conference, at Dakar, Senegal, in 1978, the 'Protocol on Mutual Assistance on Defence' at Freetown, Sierra Leone in 1981. ECOWAS also developed a crisis-management institution designed to manage disputes between the member-states. A five-member 'Standing Mediation Committee' was established in 1990. Nevertheless it is a fact that ECOWAS was not a 'regional arrangement' as visualised by the UN Charter.

Chapter VIII of the UN Charter (A52) approves of suitably mandated 'regional arrangements' undertaking conflict resolution providing that the action is 'in accordance with the purposes and principles of the Charter'. A 'regional arrangement' would normally be an association of states committed by treaty to act together in matters of regional security. In West Africa the only organisation empowered to act in security questions was, and is, the OAU. The OAU Charter contains a crisis-management mandate.

In accordance with A 53 'regional arrangements' may only adopt 'enforcement' measures if such measures are first approved by the Security Council.

⁴⁵ ECOMOG initially described its action a 'peacekeeping' mission. But, as the Togo delegate at the meeting of the ECOWAS' Standing Mediation Committee pointed out, peacekeeping contingents operate under consent. Togo would not participate without having first received the consent of the three major factions in the Liberian civil war.

⁴⁶ ECOMOG's military operation was not even-handed; it was directed principally against one of the parties in the civil war (the Charles Taylor faction).

⁴⁷ The Council gave retrospective endorsement to the intervention, in 1992, with the unanimous adoption of SC R 788. The only dissenters in the debate on 788 were non-voting participants: those ECOWAS members states which had voted (in ECOWAS meetings) against the original military operation. Greenwood The World Today February 1993 p 37. See also 'Funmi Olonisakin 'UN Cooperation with regional Organisations in

- is more significant than the objections raised by academic lawyers. It is the practice of states which determines the growth of international law, not the constraints of legal tradition. In the case of the ECOMOG operation the international community was prepared to accept the actions taken, irrespective of the apparent legal defects. The ECOMOG operation was incorporated into the UN's programme of conflict resolution in Liberia.

As the international community was prepared to tolerate ECOMOG's operation as an 'exception' to the general rule of non-intervention what can be said of the state of the international consensus on intervention in November 1990, when ECOMOG first deployed to Liberia? Oscar Schachter⁴⁸ has noted that the General Assembly condemned the US intervention in Grenada in 1983⁴⁹ but there was no equivalent UN condemnation of the ECOMOG intervention in Liberia. Perhaps the explanation for the silent acceptance of intervention in Liberia was due to:

- an awareness that a humanitarian crisis was imminent and no other form of conflict resolution (apart from ECOWAS intervention) was likely to have any positive effect on the situation.
- a preparedness to accept that this coalition, although open to the charge of 'national-interest motivation', could not be criticised as a *colonialist* adventure designed to further the interests of leading states.

The international community appeared to be re-defining its attitude to intervention since the US-dominated Grenada intervention. Whereas it had previously only accepted intervention for the purposes of 'self-determination' it would tolerate intervention so long as it was multi-national and justified by a genuine humanitarian crisis. If this analysis is correct November 1990 marked another threshold in the transition of international opinion - expressed in

Peacekeeping: ECOMOG and UNOMIL in Liberia' International Peacekeeping Vol 3 No 3 1996 pp 33-51. Following 788 the UN dispatched a peacekeeping force, UNOMIL, to Liberia. This force worked in cooperation with ECOMOG; it did not replace it.

⁴⁸ O Schachter 'Authorised Uses of Force by the UN and Regional Organisations' in LF Damrosch and DJ Scheffer (eds.) Law and Force in the New International Order (Boulder, Colorado: Westview, 1991) p 88.

pragmatic action rather than legal decisions - on intervention in humanitarian crises.

Where the international community gives silent consent to a previously unacceptable practice it is not necessarily creating a valid legal (or even political) 'precedent'. States do not recognise a political or legal obligation to follow all the pragmatic decisions of the past. The development of international law, though based on state practice, is not so clear-cut. It advances by small steps as well as large ones. The small ones are practical decisions which attract approving reactions, or silent support, from the international community. The large ones are formal shifts in declared norms of international conduct, delivered in international treaties or in formal declarations by the General Assembly of the UN.

Study of the early days of the ECOMOG intervention is relevant to the study of the Kurdish crisis. In the first place ECOMOG deployed just months before the Kurdish crisis broke. The international community was watching the progress of the ECOMOG operation just as the Kurdish crisis arose. Second, the crises in Liberia and in northern Iraq stemmed from similar causes: civil wars bringing threats to neighbours' stability and mass civilian suffering. Third, the actions taken by the UN were similar: the Security Council chose neither to authorise a UN intervention nor to take a position on the legality of the intervention. In both cases the Council remained silent despite the accusations from some states that the interventions were contrary to international law.

It is likely that the members of Security Council and the General Assembly avoided conclusive decisions on the legality of these interventions because they preferred a pragmatic rather than a legalistic approach. In both cases the international community treated the interventions as exceptions to the principle of non-intervention.

This analysis of interventions in southern Africa and Liberia suggests the following conclusions:

⁴⁹ GA R 387, 38 UN Supp (No 47). UN Doc A/38/L 8 (1983).

- The 'self-determination' declarations of the General Assembly created the first political exception to the general principle prohibiting intervention in intra-state conflict. This was in cases where colonial or *apartheid* conditions were found to exist. Intervention - including limited forcible action - taken by neighbouring states (and others) could be justified on a case-by-case basis. It might be justified if intra-state conflict caused a 'threat to international peace and security'. Action by neighbours (and others) might also be justified on the sole grounds of the 'violation of basic human rights' by an 'alien' regime. This rationale implied that multinational intervention could be justified by conditions inside a state, even if the crisis had no 'international' effects. Actions taken and authorised by the UN in respect of *apartheid* territories rarely involved the use of force, and never involved the use of force on the territories themselves. The measures taken against South Africa and Southern Rhodesia amounted to a precedent but cannot be said to have defined a 'right' with the full force of customary law.

- In one of the first cases of forcible intervention to occur after the end of the Cold War the action (and inaction) of the Security Council in respect of the ECOMOG intervention in Liberia appeared to approve this intervention as another exceptional case. In Liberia, however, (forcible) 'humanitarian' intervention in an intra-state conflict occurred for the first time in a state or territory where no colonial or 'alien rule' conditions existed. The Security Council tacitly approved that intervention at the time, and, in 1992, did so explicitly.

The international community appeared to tolerate interventions inside states in order to relieve mass suffering. But this tolerance was limited. Council members preferred to call permissible interventions into intra-state conflict 'exceptional cases'. It appears that the requirements for international approval in such 'exceptional cases' are: a mass tragedy (from human rights abuse or natural causes), a requirement for urgent action, where the action is to save life (not alter borders nor unseat a responsible and recognised government), and where there is at least

a threat of transborder effects threatening the security of neighbouring states.

If humanitarian intervention is ever to be justified, it will only be in exceptional and very particular circumstances [emphasis added]... a compelling and urgent situation of extreme and widespread humanitarian distress...the territorial state is incapable of meeting the needs...or unwilling to do so...(or is perhaps the cause of it)...active resistance on the part of the territorial state...action taken is limited in time and space...overwhelming and immediate considerations of humanity and has the general support of the international community.⁵⁰

THE POLITICAL CONTEXT OF THESE DEVELOPMENTS IN INTERNATIONAL CONDUCT

The period 1945-89 was dominated by confrontation between leading states and also regional wars as well as lesser forms of conflict. Super-power rivalry, the operation of spheres of influence⁵¹ and the existence of the threat of nuclear war tended to marginalise the UN and international law as a determinant of the conduct of states. In the UN General Assembly, however, many member-states pursued an agenda of anti-colonialism, anti-apartheid, and to some extent, anti-Zionism. More broadly there was pressure for the redress of historic grievances (especially the legacy of colonialism), the reduction of leading states' domination of less powerful states and a more equitable sharing of the world's resources.

In the same turbulent period there were civil wars in which substantial numbers of people were killed, made homeless and forced across borders into exile. Examples are the Nigerian civil war (1966-7), Burundi (1972-3), Kampuchea (1975-6), East Timor (1975-6), the Central African Empire (1978-9) and Equatorial Guinea (1977-9).⁵² These civil wars, despite their immense cost in

⁵⁰ R Jennings and A Watts (eds.) Oppenheim's International Law (9th Edition) London 1992, p 443, Note 18.

⁵¹ Superpower attempts to prop up failed or failing states caused friction. Sometimes these situations led to unilateral intervention.

⁵² Leo Kuper Genocide: Its Political Use in the 20th Century (London: Penguin, 1981).

human lives, did not attract intervention. Was the lack of international response determined by super-power confrontation, in the UN or elsewhere, or by respect for the 'domestic jurisdiction' of the states concerned? Or were the consequences of these wars too insignificant - in strategic terms - to warrant intervention from abroad? It is likely that these wars were allowed to continue without intervention because neighbouring states, and leading states, saw the wars as unthreatening to their own vital interests and not worth the risks and costs of intervention.

Thus, however bitter for those consumed by its violence, the troubles of many weak states may be of no international consequence if they have little effect on the state system as a whole. Disputes well away from the main political centres are unlikely to excite the participation of leading states.⁵³

In other cases, mentioned above, neighboring states intervened unilaterally in intra-state conflict. But some of the most controversial interventions of the Cold War period were undertaken by the superpowers in pursuit of their own interests. The USSR sought to justify the occupation of Hungary 1956 and Czechoslovakia in 1968 as efforts to 'protect socialism'.⁵⁴ The US intervention in the Dominican Republic (1965) was in part justified - to the domestic US audience, at least - as an action to 'promote democracy'. In the Panama intervention (1989) the domestic justification was the suppression of drug imports into the US.⁵⁵ Thus both the US and the USSR claimed a right of intervention within their sphere of influence. These examples do not conform with a modern concept of 'humanitarian intervention'.

During this period international opinion overwhelmingly supported respect for national sovereignty and therefore non-intervention. The letter (and, surely,

⁵³ Lawrence Freedman 'Weak States and the West' Economist 11-17 September 1994 p 50.

⁵⁴ The Brezhnev Doctrine.

⁵⁵ Sometimes called the Reagan Doctrine.

Both the Brezhnev doctrine and the Reagan doctrine proclaimed a highly non-humanitarian *droit d'ingérence* (right of intervention) respectively, in order to crush emancipatory revolts among satellites (such as Hungary, Czechoslovakia and Afghanistan) and in order to support anti-communist insurgents (such as in Nicaragua, Angola and Afghanistan). Hoffmann p 30.

The policy was not what it seemed. See Robert Kagan The Twilight Struggle: American Power and Nicaragua 1977-1990 (New York: The Free Press, 1996) p 352. For a legal judgement on the policy vis-a-vis Nicaragua, see ICJ judgement, Note 22 p 43, above.

the spirit) of the UN Charter points unfailingly in that direction. This period also saw an exception to that rule in cases of 'self-determination'. But by the end of the period, even before the end of the Cold War, it is possible to discern a further shift in opinion and in the practice of states. The acceptance that 'self-determination' should 'exceptionally' justify intervention gave way to a broader notion that a second principle - the systematic abuse of human rights - could also justify intervention.

The first such crisis after the end of the Cold War - the civil war in Liberia and the ECOWAS intervention - showed that the relief of mass suffering could justify forcible intervention. This suggested a new type of 'exceptional case', even where no 'alien rule' or 'occupied territory' conditions existed. These developments strengthened the effect of General Assembly resolutions adopted in 1988, 1990 and 1991⁵⁷ which required states to give aid agencies access to victims of disasters.

CONCLUSIONS

The Conclusions of this chapter are as follows:

- The 19th century practice of 'great power' interventions established a precedent for states to intervene in other territories, forcibly to protect their citizens, their co-religionists and their property. But these 'rights' were progressively dismantled by the treaties which created the 'collective security' regimes associated first with the League and then with the United Nations.⁵⁸
- Since World War 2 the practice of the international community has acknowledged the legitimacy of state authorities' 'domestic jurisdiction': customary law prohibited (forcible) intervention into states and non-self-governing territories.
- During the period 1945-89 'Cold War' interventions did not prompt remedial action (or, in some cases, even

⁵⁷ These were GAR 43/131 'Humanitarian Assistance to Victims of Natural Disasters' December 1988, GAR 45/100 of December 1990 and GAR 46/182 'Strengthening the Coordination of Humanitarian Assistance' of December 1991 (ie after PROVIDE COMFORT). All emphasised the humanitarian need for aid agencies to provide relief to victims even when the government of the state refused to, or failed to, consent to their actions. Ramsbotham and Woodhouse Humanitarian Intervention in Contemporary Conflict: A Reconceptualisation (Cambridge: Polity, 1996) p 86.

⁵⁸ See p 37.

censure) from the UN because there was no working consensus on the Security Council to take concerted action.

- In the 'self-determination' declarations adopted by the General Assembly the UN created an exception to the principle of non-intervention in territories under colonial or 'alien rule'. In dealing with South Africa and Southern Rhodesia (after UDI) the Security Council accepted that intervention was justified. Sometimes the Council took action on the grounds that the intra-state conflict caused by racial divisions could be regarded as a 'threat to international peace and security'. But intervention was also justified on the sole grounds of the 'violation of basic human rights'. Here the Security Council implied that intervention could be justified by conditions inside a state, even if there was no threat to international peace. The Security Council favoured the use of economic sanctions - not intervention - and authorised only the most limited use of force. The measures taken against South Africa and Southern Rhodesia strengthened the case for intervention as an option open to the international community. But they did not create a universal precedent establishing a 'right' of intervention with the full force of customary law.

- In one of the first cases of (forcible) intervention after 1989 the Security Council ignored (and later endorsed) the ECOWAS intervention in Liberia. The approach taken by the Council broadened the category of crisis in which, as an exceptional case, 'humanitarian' intervention (including the use of force) in an intra-state conflict would be permitted. This broader category would include, for the first time, states or territories where 'self-determination' was not an issue.

- The Security Council consideration of the intra-state conflict in Iraq in March and April 1991 drew upon this past practice of the UN when it decided upon action in the Kurdish crisis. Before examining the activity in the UN surrounding that crisis we must first consider its origins and those features which made it appear exceptional.

CHAPTER 3

THE KURDISH PEOPLE - RELIGION, LANGUAGE, CULTURE AND EARLY HISTORY

The preceding chapter considered some of the problems of sovereignty in the international system in the late 20th century. An interesting example of a people-without-a-state exists in the case of the 20 million Kurds, living as minority groups in states in the Levant and the Caucasus. Conflict between Kurds and the rulers of their 'host' states has in the past threatened international peace and security. This chapter provides the background material on the Kurds and forms the backdrop to the description and analysis of events in the Kurdish crisis of 1991.

International reactions to the Kurdish crisis were influenced in part by external states' concerns about political-legal questions on the proper status of minorities and by concerns over other parties' rights or duties of 'intervention' in intra-state conflict. But the reactions were also conditioned by the competing interests of leading states and their governments' calculations about longer-term regional stability. The Kurds are therefore a people whose recent experience makes them a model for the study of 'intervention'.

The Kurds are citizens of states which have, to a varying extent, attempted to suppress their political identity and culture in the pursuit of *assimilation*. The Kurds have frequently rebelled against their 'host' governments and fought against other groups within those 'host' states. These rebellions have in turn been exploited by neighbouring states who have sought Kurdish allies in pursuit of their own interests. More recently the Kurds have become entangled in leading states' strategic involvement in the politics of the region. Another form of external contact has come from states and organisations which wish to protect (and, in some cases, to promote) the human and political rights of minority peoples. The Kurds are, therefore,

established targets of foreign influence and involvement.

Some observers generally sympathetic to the Kurdish people have assumed that there is a long-standing, universal and coherent Kurdish aspiration for independent statehood, as well as a coherent movement dedicated to this cause. This is not an accurate picture, as will be explained below.

The themes of this chapter will be as follows:

- The historical origins of the modern states of the 'northern tier' and the political history of the Kurds inside those states.
- The linguistic, religious and political divisions in the Kurdish populations.
- The distrust felt by Arabs, Turks, Persians and Kurds towards leading states, especially those states' involvement in the Middle East in the 20th century.
- The 'host states' attempts to assimilate their own Kurdish citizens to date.
- The Kurdish populations failure (to date) to coordinate their separate efforts - and exploit all possible sources of external support - to create viable political structures.
- The 'host states' experience of receiving Iraqi Kurd refugees during the *Anfal* in 1988.

KURDISH CULTURE, POLITICAL TRADITION AND IDENTITY IN HISTORY

Until recent times the Kurds' sense of identity focused on the tribe or clan. There was little evidence of Kurds having a 'national' consciousness. Indeed inter-communal rivalry and fighting between Kurdish groups was far more common than 'national' resistance to any central authority. The explanation of this lies in the nature of Kurdish society.

Throughout history most Kurds have lived as tribesmen in nomadic communities under the authority of feudal chiefs.¹ By the opening of the 20th century, however,

¹ Van Bruinessen makes the point that 16th and 17th century sources use the word Kurd to mean a 'pastoral nomad' without regard for race. M van Bruinessen 'Kurdish society, ethnicity and refugee problems' in Philip G

many had become semi-nomadic and others lived in permanent settlements. By 1914 many were already living outside the feudal system as townspeople. Today 40% of all Kurds live in cities.²

The traditional lands of the Kurdish people(s) are the mountains and foothills in the 'northern tier' of the Levant, Anatolia and the Caucasus. With a total population of over 20 million they are to be found in eastern Turkey³, northern Syria, north western Iran⁴ and in northern Iraq. There are also small populations in the Lebanon⁵ and the southern Caucasus states of Azerbaijan, Armenia and Georgia.⁶ Recently sizeable Kurdish populations have become established in Western European states: there are large communities in Germany and Sweden and a smaller community in France.

In 1989 the Kurdish population in Turkey was assessed to be between 10% and 20% of the Turkish population: 8-9 million out of a total population of 60 million. The Kurds are in a majority in Turkey's south-west provinces. Other centres of Kurdish population exist in Istanbul, Izmir, Ankara and Adana. The Kurds in Western Anatolia are descended from people who were compulsorily relocated from the East after uprisings in the past.⁷ The Turks themselves are not an ethnically pure race. One authority has noted that many Turks are of foreign (that is, non-Turkic) descent:

The proportion of urban and middle class Turks whose grandparents came as refugees from the Balkans, Crete, Egypt, the Caucasus and other parts of the Soviet Union is probably over 50%.⁸

² 'Fehrad Ibrahim 'The Kurdish National Movement and the Struggle for National Autonomy' in Berch Berberoglu (ed) The National Question: Nationalism, Ethnic Conflict & Self Determination in the 20th Century (Philadelphia: Temple University Press, 1995) p 37.

³ M Gunter 'The Kurds in Turkey: a Political Dilemma (Oxford: Westview, 1991) p 6 and Henri Barclay 'Turkey's Kurdish Dilemma' Survival Winter 1993-4 p 52).

⁴ Most Iranian Kurds live in the north-west of the country, in the province of western 'Azerbaijan'. Within this province there is a district called 'Kurdistan'. Other significant Kurdish settlements exist in Bakhtara and Ilima, and others in Luristan and Hamadan.

⁵ Vanly in Kreyenbroek p 165.

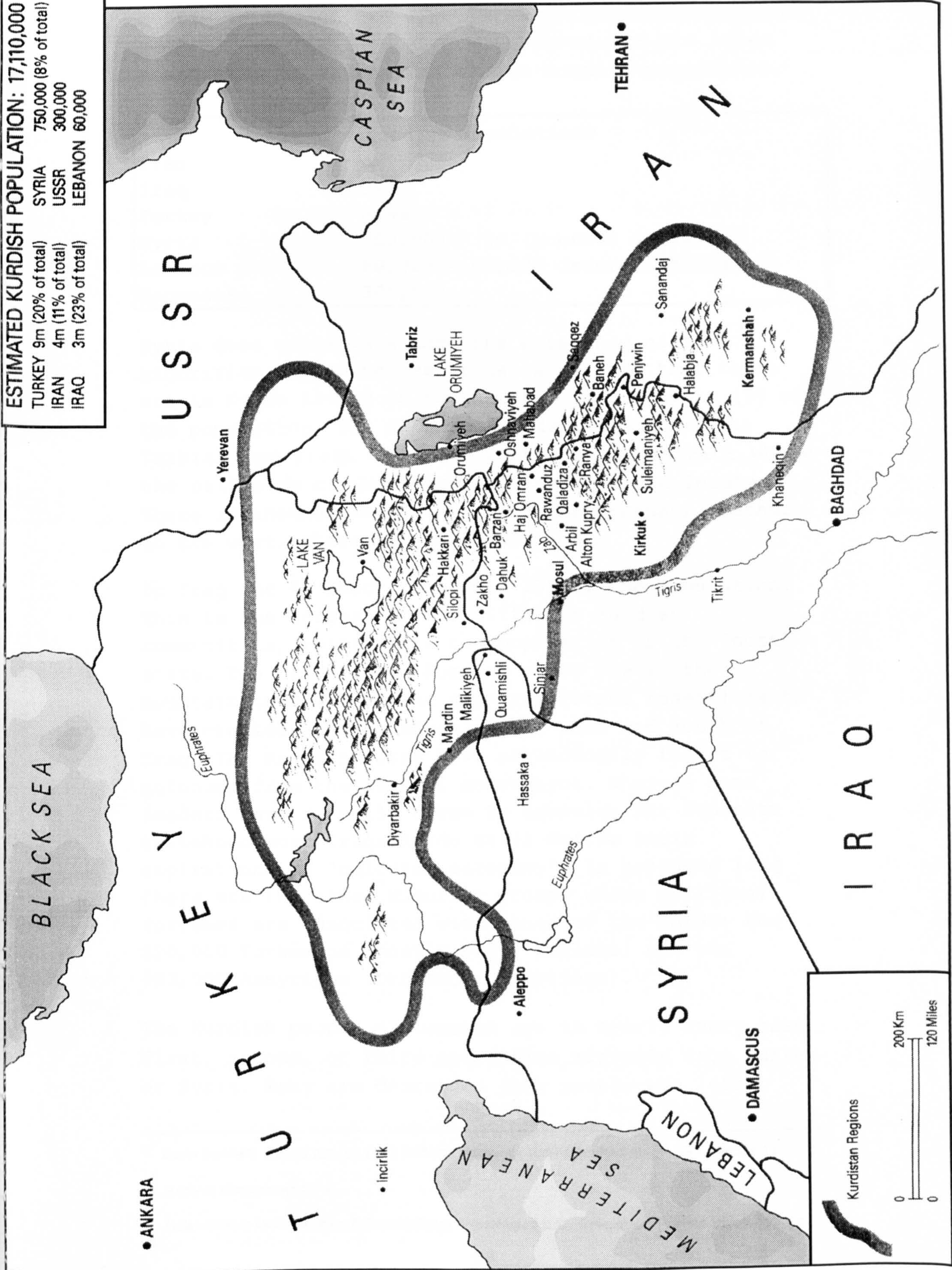
⁶ Abdul Rahman Ghassemlou states that the total area occupied by Kurds [in 1965] was 409,650 square miles. Kurdistan and the Kurds (London: Collets Holdings, 1965) p 23.

⁷ Barclay p 52.

⁸ David Barchard Turkey and the West (London: Routledge and Kegan Paul for the IISS, 1985) p 13.

ESTIMATED KURDISH POPULATION: 17,110,000

TURKEY	9m (20% of total)	SYRIA	750,000 (8% of total)
IRAN	4m (11% of total)	USSR	300,000
IRAQ	3m (23% of total)	LEBANON	60,000



There are also Azeri-speaking Turcoman populations, mostly in the cities of Diyarbakir and Kirkuk. These people have inter-married with Kurds and are often considered to be members of the Kurdish population.

Kurdish Populations	
Iran	4m
Iraq	3m
Turkey	8-9m
Syria	750,000 - 1m (sources disagree)
Lebanon	60,000 - 90,000 (sources disagree)
Caucasus	300,000

Syria does not acknowledge the existence of its minorities. Nevertheless it is calculated that there are 1m Kurds living in that state, amounting to 10% of the population. The main centre is Jazira, on the Turkish and Iraqi borders, in the same district where the oilfields of Quarachok and Remilian are located. There is another Kurdish enclave, Arab-Pinar, further to the west, where 60,000 Kurds⁹ live.

In Iraq the 4m Kurds represent 20% of the population. This is the largest of the different Kurdish communities, relative to the population of the 'host' state. The traditional Kurdish areas are in the mountainous north of the country. Forced resettlements have created Kurdish areas in the west and south of Iraq. The Kurds of Iraq have periodically fought for autonomy from the central government. Whereas some leaders have recently begun to campaign for separate statehood most Iraqi Kurds still define their aspirations as 'cultural autonomy'. In northern Iraq there are two other minority groups whose political fortunes are associated with those of the Kurds: the 220,000 Turkomans (mostly Sunni Moslems) and the 133,000 Assyrians (Orthodox Christians).¹⁰

The Kurdish people of Lebanon are in nearly every case first, second, or third generation migrants from Turkey or Syria. Many are descended from people who left

⁸ David Barchard Turkey and the West (London: Routledge and Kegan Paul for the IISS, 1985) p 13.

⁹ Vanly in Kreyenbroek p 148.

¹⁰ Helen Chapin Metz (ed) Iraq: A Country Study (Washington D.C.: Government Printing Office, 1990) p 86.

Turkey after the failed Kurdish uprisings in the 1920s. In 1983 the number of Kurds in Lebanon was estimated at 90,000. Nearly all live in west Beirut. The recent civil war (and occupations by foreign forces) have led the Lebanese Kurds to make themselves inconspicuous. There is no established 'Kurdish rights' movement in Lebanon.

The Kurds are also divided by religion. Although most Kurds are Moslem¹¹ they are divided into sects.¹² 85% of Kurds are Sunnis but there are divisions between the adherents of various dervish sects (such as the numerous Nashquibandi and the fewer al-Allahis), especially in Turkey and Iraq. There are also Kurdish populations within the Shia religious community in the region - the Fali clan, in Iraq, and some of the Alevi people, in Turkey - who are regarded as kin to the Kurds. Whereas the Shia Kurds are accepted as members of the wider Kurdish population the Kurds of Iraq and Syria are hostile to their Shia Arab neighbours.¹³

The Fali represent about 10% of the Kurds in Iraq and live in the area of Baghdad. Earlier this century the Fali chose to adopt Iranian nationality but remain living in Iraq (largely to avoid conscription of their menfolk into the Iraqi or Iranian armed forces). In the 1940s many Fali applied to become Iraqi citizens. Nationality laws required them to be naturalised rather than given full citizenship. This lesser status was exploited in 1969-88 when the regime deported 130,000 Fali to Iran.

Living amongst the Kurds are also Chaldean or Assyrian (Orthodox) Christians, Armenians (also Orthodox Christians) and Kurdish believers in Yazidism (a syncretic belief with elements of Islam, Nestorian Christianity, Judaism and Zoroastrianism). Nearly all

¹¹ D McDowell A Modern History of the Kurds (London: IB Tauris, 1996) p 10. Also Ibrahim p 36. Entessar p 5.

¹² Munir Morad 'The Situation in Iraq and Turkey; Current Trends and Prospects' in Philip G Kreyenbroek and Stefan Sperl (eds.) The Kurds: A Contemporary Overview (New York and London: Routledge, 1992) p 131. Also, M van Bruinessen 'Kurdish society, ethnicity and refugee problems' in Kreyenbroek and Sperl p 40.

¹³ See the refusal of the Iraqi Shia parties opposed to the Baath to join the Kurdish parties in a joint united front, despite attempts made by the Kurdish leadership during the Iran-Iraq War and in 1990 during the early days of the Gulf Crisis. When asked if the Kurds would be safer in Iraq if the Shia - the majority Moslem denomination in Iraq - took power Kurds invariably replied that the Shia in power would be 'worse than Saddam'. Source: author's conversations with village headmen and elders in northern Iraq April-July 1991.

Yazidi Kurds are to be found in the Caucasus. There are also a few Jewish Kurds. Members of these religious groups who live amongst the Kurds, irrespective of their exact ethnic origin, consider themselves to be (and are accepted as) members of the same Kurdish communities. Van Bruinessen has noted that the non-Moslem minorities living in the Kurdish areas have significantly declined in the last hundred years 'due to massacres, flight and perhaps to a lesser extent, due to religious conversion'.

Writing about the global Kurdish population McDowell gives the proportion of Sunni Moslems as 75%, and Shia Moslems as 20%. According to Fehrad Ibrahim¹⁴ 4% of this population are (Orthodox) Christian. Most of the 30,000 Jewish Kurds (who lived in northern Iraq) emigrated to Israel in the period 1945-65. According to Entessar there are still 200 Jewish Kurd families living in the Iranian city of Sanandaj.

The Kurds are also divided by language. The often remote location of Kurdish communities and the historically low literacy rate amongst the people have meant that the languages have developed slowly. During the centuries of Ottoman rule the Kurdish languages existed in an oral rather than a written tradition. They have also been influenced by the 'majority' languages: Turkish in Turkey, Arabic in Iraq and Syria, Farsi in Iran. Kurds did not devise new words for contemporary objects or new ideas; they adopted the word or grammatical pattern found in the 'majority' language. Vanly maintains, however, that 90% of Syrian Kurds use Kurdish amongst themselves in everyday life and the peasantry has no knowledge of Arabic.¹⁵ Michael Ignatieff states that this is also true of Iraqi Kurds. In contrast many Turkish Kurds have no knowledge of the Kurdish languages.¹⁶

The Kurdish languages are Indo-Persian in origin and linguistically much closer to modern Farsi than to

¹⁴ Note 2, above.

¹⁵ Vanly in Kreyenbroek p 148.

¹⁶ Blood and Belonging: Journeys into Nationalism (London: Vintage, 1994) p 137.

Turkish or Arabic. There are three main language groups (some of which are mutually incomprehensible): Kurmanji, Sorani, and a third group which exists only as an oral tradition. Kreyenbroek insists on 'Kurdish languages' rather than 'dialects of the Kurdish language' because they are so different.¹⁷ He compares their differences to those between modern English and German.

Kurmanji is spoken by Kurds in Turkey, Syria, the former-Soviet Caucasian territories, and in the northern parts of Iraq and Iran. Kurmanji is normally written in Roman script but there are exceptions: Cyrillic script is used in former Soviet territories; Iraqi Kurds living north of the Great Zab use the Arabic script. Kurmanji (like French and German) has gender and case-endings for articles, adjectives and nouns. From 1920-1945 the main centre for the development of Kurmanji as a modern language was Syria. After the end of the mandate it moved to western Europe. The Chair of Kurdish Studies at the Sorbonne was founded in 1950.

Sorani is spoken by the Iraqi Kurds living south of the Great Zab and those living in the central Kurdish districts of Iran. It is written in the Arabic script. Like English it does not have case or gender-endings for articles, adjectives or nouns. Since the mid-18th century the sub-dialect of Suleymaniyeh has established itself as the dominant form of Sorani.

The Iranian languages Zarza and Gurani¹⁸ are also used in Kurdish communities. The Zarza-speakers, in most cases Alevi (Shia) Kurds, live in Tunceli province (formerly called Dersim) in Turkey, in the triangle between Diyarbakir, Ezerum and Sivas. Zarza uses Roman script although few publications exist to standardise the language. Many Zarza-speakers also understand Kurmanji but few Kurmanji-speakers understand Zarza.¹⁹ Gurani is close to Zarza and is

¹⁷ Kreyenbroek p 70. There are differences between language experts' assessments of the Kurdish languages. Entessar gives the main languages as *Kurdi*, *Kurmanji*, and *Zarza*.

¹⁸ Kreyenbroek p 70.

¹⁹ Ibid.

used by Kurds living in and around Bakhtaran (formerly Kermanshah) in Iran.²⁰ The native speakers of Zarza and Gurani are also accepted as Kurds.²¹

The written forms of these languages lack uniformity, however, even within the main language groups. Most Turkish Kurds now speak Turkish as their mother tongue; they also write whatever Kurdish words they know in the Roman script. Many, if not most, Iraqi Kurds, in contrast, speak Arabic as their mother tongue but write Kurdish words in Arabic script. The Kurds of Iran write Kurdish words in the Persian script. As noted above different Kurdish communities have incorporated words from the 'majority' language into their Kurdish language. The Kurdish languages are therefore a patchwork where Kurds from areas distant to one another cannot understand the others' Kurdish, in speech or in writing.²²

As with the languages so with considerations of ethnic unity.²³ Many Kurds acknowledge that their own lines of descent are from Arab forebears.

On this evidence it is hard to conclude that the global Kurdish population constitutes a recognisable social community. It is even harder to recognise a coherent political community. Divisions are significant and the points of similarity seem superficial. Perhaps the key issue is the 'sense of community' or 'nationality' amongst these people. Do they regard themselves as a people, with collective identity and aspirations? Or is the Kurdish identity a myth propagated by their different leaders and by their friends abroad? Perhaps Western commentators have been too ready to accept the 'Kurdish nationalist' assumption that any people sharing an ethnic identity, however fragmented, are somehow destined to belong to a unified political entity.

THE POLITICAL TRADITION OF THE KURDS

The Kurds originate from territories which have only recently entered the state system. Before the 20th

²⁰ Andrew Mango Turkey: The Challenge of a New Role (Washington: Centre for Strategic and International Studies, 1994) p 35.

²¹ Kreyenbroek points out that the native Zarza and Gurani speakers are probably not true descendants of ancient Kurds. They are however accepted as Kurds and regard themselves as such. Kreyenbroek p 70.

²² The complexities of the Kurdish languages' oral and written forms are well described in Joyce Blau 'Kurdish Written Literature' in Philip Kreyenbroek and Christine Allison (eds.) Kurdish Culture and Identity (London: Zed Books, 1996) pp 20-27.

²³ David McDowell 'The Kurdish Question; A Historical Review' in Kreyenbroek and Sperl p 11.

century the 'empire'²⁴ of the Ottomans was a loose collection of provinces bound as much by a sense of Islamic religious and cultural identity as by a sense of political allegiance to a central authority.²⁵ The Islamic word for state (*dawla*) is itself a modern invention. Under the Ottomans the key concept was that of '*umma*': the community of all Moslems ruled by a 'sultan-caliph', a temporal ruler descended from the Prophet and bound to rule in accordance with Islamic Law.²⁶

The remainder of the Kurds were under Russian (later Soviet) rule, or were subjects of the Shah of Persia. These Kurdish populations enjoyed a degree of autonomy due to the remote location of their homelands, far from the centres of power.

Kurdish society was originally tribal and feudal. Chaliand notes that inter-tribal conflict defines the tribe itself.

The one constant, the one important occasion when the tribe will always act as such, is in confrontation with another tribe or clan. In this sense one can say that only conflict and revenge, which are essential aspects of tribal values, give this type of segmentary social organization any relevance.

Revenge is between groups. The goal is not to punish the guilty individual but the group to which he belongs.... The tribe is, in practice, the largest grouping within Kurdish society. There has never been, at least until the middle of the 20th century, any real national feeling capable of transcending tribal rivalries. Even in the 20th century, Kurdish nationalist movements have been systematically opposed, not only by governments but also by government-allied Kurdish militias who have sought thereby to weaken a

²⁴ Some authorities avoid the term 'Ottoman Empire' because the structure was loose and built on a consciousness of religious and cultural identity, rather than on state authority.

²⁵ Gunter p 11.

²⁶ Some Arab scholars argue that nationalism only arose in the Moslem world because of the activities of Western imperialists. It is argued that the Western powers used missionaries in order to create rifts in the hitherto peaceful Moslem *umma* in order to foster nationalism and thus allow colonial domination. Shabir Ahmed The Roots of Nationalism in the Muslim World (London: The Islamic Book Company, 1995) p 21.

rival. Until recently nationalism has never been a strong enough ideology to bridge such gulfs....

The play between tribes is one of perpetual opposition.... The ability of these leaders to develop good relations with the authorities will increasingly become the key factor in determining their political successes and failures.²⁷

Kurdish rebellions occurred under the Ottomans, notably the uprising led by Sheik Obeidullah in 1880. Revolts against the central authorities reflected local leaders' annoyance at interference in their domains rather than any 'nationalist' philosophy. Despite the Kurds' strong sense of independence there have always been tribes who have allied themselves with the central authorities against their fellow-Kurds. Where tribal lands have been accessible to government forces (and therefore vulnerable to punitive expeditions), or where ancient rivalries have divided Kurdish leaders, some tribes have repeatedly allied themselves with the central authorities and opposed any Kurdish rebellions which took place.

Kurdish populations in the various territories have experienced central governments' attempts at *assimilation*²⁸ of minorities. These policies have created counter-pressures for *cultural recognition*.

As tribal federations crumbled the chiefs settled in urban areas and became absentee landlords. The sense of tribal identity was diminished. Nationalism slowly developed as one of the consequences of the breakdown of tribalism. A new class of urban Kurds, merchants, lawyers and intellectuals began to replace the *aghas* (chiefs) and *sheiks* (clergy) as leaders of the Kurds.²⁹

²⁷ Gerard Chaliand (ed) People without a Country: the Kurds and Kurdistan (London: Zed Press, 1980) pp 20-22.

²⁸ The most determined effort to extinguish the Kurds' sense of identity has taken place in Turkey. See Chapter 4.

²⁹ Fereshteh Koohi-Kamali in Kreyenbroek p 172.

For Chaliand the Kurds' failure to achieve statehood has not just been a lack of effort, but a lack of aspiration.³⁰ He attributes the failures before 1978 to their leaders' blindness to the ambiguous nature of their alliances and their inability to forge an 'organic link between the masses and the peoples' army'. Above all the leadership was parochial, lacking vision:

The leadership never managed to set itself the goal of rising above its own society, carrying the masses with it, as other revolutionary leaderships managed elsewhere - backwardness of the mountain Kurds, in particular their élites, did not seize opportunities presented by 1918 and 1946 with success, carrying the masses with it like nationalists managed elsewhere real radical practice.

Chaliland also criticised Kurdish leaders:

The fundamental values [of the élites] are those of yesteryear: tactical cunning instead of political analysis, clientist manoeuvrings instead of political mobilisation, and a few revolutionary slogans rather than an army nor a radical ideology, overtaking essentially tribal politics.³¹

THE VERSAILLES SETTLEMENT AND THE FORMER OTTOMAN TERRITORIES

The Ottoman regime was shaken first by the Young Turk revolution of 1908 and then by Turkey's defeat in World War 1. After 1908 Turkey had been alarmed at the rapprochement of its old ally, Britain, with its most hostile neighbour, Russia. The British wanted to strengthen their position in Persia to safeguard their newly-acquired oil interests. Turkey therefore sought an alliance with the European state most hostile to Russia: Germany. Soon Germany and Turkey were cooperating in building the Baghdad railway which was part of the Kaiser's *Drang nach Osten* (also called the Zimmerman Plan). The plan secretly prepared to encourage a Moslem revolt against British possessions

³⁰ Gerard Chaliand 'Introduction' in Chaliand p 16.

³¹ Ibid p 15.

in the Middle East and India. In 1914 Turkey allied itself with Germany and attacked Russian territories on the Black Sea coast. Britain attempted an invasion of Turkey in the failed Dardanelles operation but later inspired the Arab Revolt and overran Turkish territories in the Levant.

Britain and France planned a post-war settlement in which they would take control of the Turkish possessions in the Levant and Arabia. These plans were finalised in the secret Anglo-French Sykes-Picot Agreement, signed in 1916.³² But the US decision to enter the war in 1917 introduced the Wilson Administration's 'self-determination'³³ agenda into the post war settlement. The USA had entered the war 'in association' with the Entente Powers, not in alliance with them. It had, furthermore, declared war on Germany and Austria (but not on Turkey). Accordingly the Versailles Settlement was influenced by the US Administration's enthusiasm for 'self determination' for minorities. It also had to take account of President Wilson's concept of 'collective security', an approach to international relations which sought to eliminate wars of conquest and other forms of aggression. The US Administration's concern for the rights of minorities in Anatolia, on the one hand, and the strategic ambitions of the British and the French, on the other, were eventually brought together in the system of 'mandates'. Thus plebiscites would determine the political future of the minorities in Anatolia and the Britain and France would, for a few years, supervise the peoples of modern Syria, Lebanon, Iraq (and Transjordan) as they prepared for eventual independence.

The Versailles conference only considered the post-war settlement of the former Ottoman territories after it had addressed the questions of Germany and Austria. But political and military tensions inside the region would not wait for decisions to be made at Versailles.

³² Roger Adelson London and the Invention of the Middle East: Money Power and War 1902-1922 (New Haven NJ: Yale University Press, 1995) p 40. Czarist Russia was also a party to this Agreement. The Bolshevik regime, on coming to power, renounced Russia's participation (and published the documents).

³³ Jeffrey T Richelson A Century of Spies: Espionage in the Twentieth Century (London: Oxford University Press, 1995) p 44.

THE REPUBLIC OF TURKEY

At the end of the war the states with significant expatriate communities in Anatolia moved to protect their compatriots. On 29 March 1919 an Italian force landed at Smyrna. A Greek force followed on 14 May. Turkish nationalists were alarmed: they recognised that Turkey could not retain control of their former possessions in the Levant and Arabia. But they would not accept the fragmentation of the Anatolian heartland into territories dominated by non-Turkish peoples. On 4 September Atatürk proclaimed the 'National Pact', declaring Turkish sovereignty over all former-Ottoman territories in Anatolia and Thrace. In November 1919 the French took possession of the Turkish province of Cilicia (part of Anatolia) on the grounds that it was populated largely by Christians.³⁴

The European powers wanted to prevent a war in Anatolia but were unwilling to deploy the military resources required to impose a settlement. Indeed British policy in the region was driven in part by a desire to de-mobilise most of their units stationed in the Middle East. British forces did, however, occupy Constantinople. They also strengthened the garrison at Charnak, in Turkish Thrace. The Allies considered inviting the Greeks to occupy Constantinople.

During the War of Independence (1919-23) Atatürk's forces confronted the garrisons of the enclaves and sought to subdue the minorities. In an attempt to bring order to the region the Versailles conference drew up a plan presented as the Treaty of Sèvres, first publicised in 1921. It authorised the restoration of Greek and Italian enclaves and planned the eventual 'self-determination' of the Armenian and Kurdish minorities, after plebiscites.

By the summer of 1923 the new Turkish state had imposed itself upon these minorities and destroyed the Greek enclaves in Anatolia. The nationalists had, besides,

³⁴ This force was destroyed by the Turks in 1921. 20,000 Christians were massacred.

defeated the Italian, French and Greek occupation forces, and had successfully emerged from a confrontation with the British (the Charnak Crisis). Their success was due to their energetic, if not ruthless, prosecution of the war and the refusal of the Great Powers to intervene decisively.

The Treaty of Lausanne (August 1923) consolidated the nationalists' victories. Great Britain and France consented to Turkish rule over the Armenian and Kurdish minorities, abandoning the 'self-determination' policy they had endorsed at Sèvres. (The US, the original sponsor of 'self-determination', had withdrawn from involvement in the region.) The British and French contented themselves, nevertheless, with the control of the 'mandates' granted by the League of Nations. Furthermore the British succeeded in detaching the oil-rich vilayet of Mosul³⁵ from the new Republic of Turkey and incorporating it into the Mandate of Iraq.³⁶

Kendal takes the view that the best chance for a Kurdish homeland occurred in the period October 1918 and June 1919.³⁷ The Kurds call the events of 1918-24 the 'first betrayal': the failure of the international community to fulfil the earlier undertaking to create 'self-determination' for the Kurdish people in Anatolia, if not elsewhere in the region.

THE MANDATES OF SYRIA AND IRAQ

As the Treaties of Sèvres and Lausanne had settled the future of Turkey and its ethnic minorities so the Conference of San Remo (1920) restructured the Ottoman territory of Syria. The four vilayets of Damascus, Aleppo, Saida and Tripoli were distributed between the two new mandate territories of Syria and Transjordan.

³⁵ The oil-rich *vilayet* of Mosul is a territory of 87,890 square kilometers and contained a population of 800,000. Despite Turkish protests this dispute was settled, after several years of diplomacy, in 1926. French and US commercial interests were satisfied by the grant of oil extraction concessions in the Mosul oilfields. Turks recall Britain's part in the loss of Mosul as yet another example of its willingness to damage Turkey's legitimate interests.

³⁶ The British had to use force to maintain their control of Iraq under the Mandate. From December 1919 to January 1921 an Arab revolt in Iraq occupied a British military force of 60,000 men. Iraq was subsequently 'policed' by the RAF. William Jackson Britain's Triumph and Decline in the Middle East: Military Campaigns 1919 to the Present Day (London: Brassey's, 1996) p 22-23.

³⁷ Kendal 'The Kurds in the Ottoman Empire' in Gerard Chaliand (ed) The Kurdish Tragedy translated by Philip Black (London and New York: Zed Books, 1994) p 38.

Later in 1920 the French further divided the mandate of Syria into two separate administered territories: Syria and Lebanon.

The Mandate powers drew the territories' (and thus the future state) boundaries, intentionally dividing the Kurdish populations.³⁸ An agreement signed in March 1921 (amended in October and again in 1926) transferred part of the Jazira area (and its Kurdish population) from Iraq to Syria. In 1939 the French transferred the *sanjak*³⁹ of Haytay-Alexandretta (and its Kurdish population) to Turkey.

During the inter-war years the British and the French encouraged minority cultures in their mandate territories, as a matter of individual rights.⁴⁰ They did not encourage the collective rights of minorities, however. They took military action to deal with uprisings and revolts against the central political authority.

CONCLUSIONS

The conclusions of the chapter are:

- The history of the Kurds is one of diversity and separation: in language, in religion and in political allegiance. Notwithstanding the claims made by their own leaders (and some others) the Kurds did not establish a *national* political consciousness, nor a *national* political movement, across the whole population, in history.
- The leadership of the Kurds has always been fragmented. In the past the various Kurdish parties in Iraq, and across the Kurdish world, have been unwilling to cooperate in sustained political or military campaigns.
- The first of the historic 'three betrayals' of the Kurds by other peoples at Lausanne was the Kurds' first experience of betrayal by the West. Later in the 20th century they would recall these events as an early

³⁸ A Sherzad 'The Kurdish Movement in Iraq 1975-88' in Kreyenbroek and Sperl p 135.

³⁹ A *sanjak* is a district of a *vilayet*.

indication that powerful states would withdraw support if and when support for Kurdish aspirations became incompatible with truly high-priority diplomatic objectives. Arabs, Iranians as well as Kurds came to suspect the motives behind Western interventions in the Middle East, even when the declared intention was humanitarian.

- The Kurds of the northern tier have been, separately, in opposition to the governments of their 'host' states since the early years of the century. As a potentially powerful and warlike people forming a sizeable minority, they have shown themselves to be a source of conflict inside the various host-states.

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⁴⁰ Jackson pp 7-9.

CHAPTER 4

THE POLITICAL HISTORY OF THE KURDISH PEOPLE IN TURKEY

The preceding chapter described how the Kurds came to be dispersed in several neighbouring states. It also described the Kurds' tribal origins and their differences in language and religion. This chapter examines the political history of the Kurds in Turkey in the 20th century from the foundation of the Republic to date. It also considers the effect of external powers' regional interventions on Turkey's Kurds. This material is presented briefly as historical background to events and reactions to the Kurdish crisis of 1991.

This chapter explains why the Kurds are a dissident minority in Turkey and why the Turks are reluctant to recognise 'Kurdish rights'. It will also explain why Turks (and Kurds) are wary of foreign interventions on behalf of the Kurds. As an introduction to the discussion (in subsequent chapters) of the rationale for Turkish decision-making during the crisis it will briefly describe the PKK campaign, the economic crisis and the strains within the governing Motherland Party (ANAP).

The themes of this chapter will be as follows:

- The conflict between nation-building and minority rights in the Republic of Turkey.
- The policy of Atatürk, and his legacy in domestic and foreign policy.
- The authoritarian tradition in Turkish politics and its impact on the minorities question.
- The successive interventions by powerful external states and their effect on Turkish (and Kurdish) national consciousness.
- Turkey's long-standing perception of Russia (and during its existence, the USSR) as the principal external threat and the consequences for Turkish security policy. The transition from policies of

neutrality through 'containment' to a 'multi-faceted' or balanced policy.

- The PKK campaign and the strategies devised to defeat it.
- The Turks' experience of receiving Iraqi Kurd refugees during the most recent Kurdish refugee crisis (the 1988 Anfal exodus) before the events of 1991.
- The impact of the Gulf Crisis on the 'multi-faceted' foreign policy.
- The economic, security and political crisis facing the Turkish president and people in 1991, just as the Kurdish crisis took place, and the impact of those concerns on the government's actions in the Kurdish crisis.

THE REPUBLIC OF TURKEY AND THE KURDS 1923-1990

After their victory in the War of Independence Atatürk and his followers - soon known as 'Kemalists' - began the policy of 'nation-building' which continues to the present day. They set out to build a modern state on a 'western' model, in accordance with principles of secularism, capitalist enterprise and national unity. Cultural assimilation¹ was central to this plan: the integration of the many minorities was a key component of 'nation-building'. They saw the suppression of the minority identities as essential for the building of a cohesive national community and a modern state. Similarly the Kemalists favoured democracy but maintained a one-party state until they judged that the population was ready to choose between a multiplicity of political parties. Atatürk himself stressed *citizenship*, not '*pan-Turkism*': he wanted Turkey to have a civic citizenship, not an ethnic one. ('Happy is he who *calls* himself a Turk'.)² He disapproved of pan-Turkism as inconsistent with

¹ More accurately, the suppression of minority cultures.

² In the eyes of the minority peoples, however, this distinction was of limited meaning. Until the 1990s Turkish officials refused to acknowledge that Kurdish people were in any way distinct from Turks. They would refer to 'mountain Turks' but never 'Kurds'. During periods of particular repression the laws forbidding the wearing of Kurdish dress in public were enforced. Kurdish towns and villages were given Turkish names. Kurdish people were forced to register new-born children with Turkish, not Kurdish, names.

Westernisation: he opposed the Young Turks' call for Turkey to align itself with the Caucasian peoples of Turkic origin and always opposed those who wanted an ethnic basis for citizenship.³

These assimilation programmes were partly successful: many Kurds, Assyrians, Armenians and Laz chose to abandon their ethnic roots and integrate with the other members of the Turkish population.

This policy offended many members of minority communities, especially those living in rural areas. Kurdish people - as well as members of other minorities - wanted to retain their traditional lifestyle and to be free of the interference of the central authorities in taxation, the enforcement of non-traditional laws and conscription. One of the most contentious issues was the refusal of the authorities to provide education to members of minorities in their own language. Another was the drive to remove Islamic influences in the political life of the state. Government assimilation programmes have been assisted, over the years, by the drift of people from the poor country areas to the towns.

The Westernisation policy also failed to satisfy the aspirations of Kurdish intellectuals. Educated, city-dwelling Kurds - often with leftist political views - opposed the Western, and capitalist direction of state policy, as well as the authoritarian nature of the single-party system which existed in Turkey until 1945. The intelligentsia also opposed the remnants of feudalism whereby Kurdish peasants were still under the control of *aghas* and *sheiks* in country areas.

From the earliest days of the civil war the Kemalists saw Islam as having positive as well as negative aspects. On the positive side Islam was the religion of the Turkish people and a cultural basis for the

In 1990 President Özal signalled his willingness to try reconciliation with the Kurds by referring in public to 'people of Kurdish origin'. This was a dramatic - and controversial - signal that the policy of forced assimilation was about to be replaced by a policy of (limited) tolerance and recognition.

³ Atatürk and his legacy still command great respect in modern Turkey. Nevertheless pan-Turkism has resurfaced in Turkish foreign policy as one of the strands of the 'multi-faceted' policy followed by all Turkish governments since the late 1970s.

nation's identity. It was a source of social welfare and cohesion. (In the 1940s and 1950s the authorities would value Islam as a counter to the threat of communism in Turkish society.) But it also was an element of backwardness and traditionalism in Turkish society. It pointed to Turkey's Middle Eastern past, not its 'European' future. To resolve this conflict the Kemalists decided on a separation of religion and state. Islam would neither be encouraged nor suppressed; it would be relegated to the private areas of life, not the public affairs of the state. Accordingly, Atatürk abolished the Caliphate, the Islamic courts and schools in 1924, less than one year after the proclamation of the Republic. In 1925 sects were banned and monasteries were closed. A new Directorate of Religious Affairs was established in 1925. In 1928 the Constitution was amended to remove the designation of Islam as the state religion. Islamic teachers were encouraged to preach the separation of state and religion.⁴

In foreign policy the Kemalists adopted a policy of neutrality: in the inter-war years Turkey concentrated on its internal development and avoided foreign commitments, especially those which would inhibit free trade. Turkey had followed Atatürk's insistence on neutrality: 'peace abroad, peace at home'. Turkey should seek to be friends with all states, especially its neighbours.

Neutral Turkey could not overlook the potential threat from Russia, however. Turks like to recall the 'sixty battles and thirteen wars' fought by the two neighbours over the last 1000 years. For generations Ottoman Turkey and Czarist Russia had struggled for control of the eastern Balkans, the Caucasus and the Turkish Straits. During the 19th century Russia had claimed the right to intervene to defend the Sultan's Orthodox Christian subjects from persecution. It was only in the period 1917-1923 that the two neighbours had found the need to give each other support. The newly created USSR and the new Turkish Republic were in agreement in

⁴ Sencer Ayata 'Patronage, Party and the State: The Politicisation of Islam in Turkey' Middle East Journal

resisting British and French influence in the Middle East. (Hence the new Soviet government's publication of the Sykes-Picot Agreement.) A Treaty of Friendship was signed in 1921. When both the USSR and the new Republic of Turkey had become established members of the international community, however, they rediscovered historic differences which could not easily be put aside. In 1936 the Soviets were annoyed by the Turkish insistence on control of the Straits in the Montreux Convention. The Turks were angered when they discovered some anti-Turkish provisions in the Molotov-Ribbentrop Pact of 1939.

Turkey remained neutral for most of the World War 2, declaring war on the Axis powers in 1945, when the Allied victory was already in sight. As the USSR emerged as a superpower in 1945 Turkey recognised that it would need allies in resisting the pressures exerted by such a powerful, ideologically-hostile, neighbour. In that year, for example, the Soviets revived an old claim to the Turkish province of Kars and once again demanded a naval base in the area of the Straits. The Turks were concerned to see the USSR supporting uprisings elsewhere in the Kurdish world, especially in Iraq. The Soviets also provided a refuge for Kurdish fighters when the Iraqi revolt collapsed in 1945. The Soviet occupation forces in Iran also inspired the foundation of the 'Republic of Kurdistan' at Mahabad. Soviet policy towards Kurds elsewhere reinforced the Turkish decision to develop a stronger security relationship with Western states.

POST WAR TURKEY - DEMOCRACY, MILITARY RULE AND EVOLUTION IN FOREIGN POLICY

From the first days of the Republic Turkey had been a one-party state. In 1945 however, as part of the Westernisation programme, the government encouraged new parties to form. These parties contested the 1950 parliamentary election. The new parties, seeking votes, courted the minorities, especially those (like the Kurds) whose geographical concentration made them a

significant bloc in many constituencies. The Kurds supported parties which were defeated by Adnan Menderes's Democrat Party which won power in that election. This was, nevertheless, the Kurds' first experience of developing political influence.

The end of World War 2 also brought the renewed involvement of powerful states into the affairs of the region. The superpower confrontation forced Turkey to review its neutrality. In the late 1940s and 1950s the UK and, in due course, the US, sought to strengthen the stability of the states of the eastern Mediterranean and the 'northern tier' to counter the perceived Soviet threat. The Truman Doctrine⁵ eventually developed into the broader policy of world-wide 'containment'. Turkey made its decision: it adopted a pro-Western security policy to protect itself from Soviet subversion or attack.

Turkey's pro-Western stance was wholehearted: it was the only 'Moslem' state to recognise Israel in 1948. Later it refused to adopt the anti-Western policies of Nasser. It supported the US in its periodic attempts to resolve the conflict between Israel and its neighbours. These policies had since the late 1940s prevented Turkey from developing close relations with its southern neighbours.

In 1953 NATO welcomed Turkey as a new member-state as a reward for its participation alongside US, British (and Commonwealth) forces in the Korean War. In accordance with the perceived Soviet threat Turkey agreed, as part of the 1959 bilateral 'Agreement of Cooperation', to the deployment of US JUPITER strategic missiles (IRBMs) at the Çigli Air Force Base, near Izmir. This decision was uncontroversial in Turkey, especially as the country's economic weakness⁶ made US economic aid

⁵ In the eastern Mediterranean this policy became known as the Truman Doctrine, after President Truman's support for Greece against the communist insurgents in 1947.

⁶ Turkey had a balance of trade deficit of \$ 350m in 1958. Total foreign aid that year was \$ 349m, of which \$ 234 came from the US. Nur Bilge Criss 'Strategic Missiles in Turkey: The Jupiter Affair 1959-63' The Journal of Strategic Studies Vol 20 No 3 p 111.

increasingly important.⁷ Membership of the alliance may have brought Turkey security from the Soviet threat but it did not prevent a revival of the historic confrontation with Greece, also a NATO member-state. By the 1950s this dispute had become focused on Cyprus - where the Greek Cypriots' EOKA insurgency demanded union with Greece - and disputes over territorial rights in the islands.

After ten years of multi-party democracy in Turkey there was a national crisis: rivalry between political leaders had produced a paralysed political process and growing public disorder. The instability reflected in part the difficulties every Turkish government experiences in bringing together the many competing aspirations of its diverse population. On the 27 May 1960 the military - in the guise of the National Unity Committee - assumed responsibility for the government and charged several leading politicians with criminal offences. In 1961 Menderes, together with two of his senior ministers, was convicted and executed. Shortly afterwards new elections were held and civilian government resumed.

The armed forces had been a powerful but non-political force in Turkey since the 1920s. They have normally avoided involvement in party politics. But senior officers see the forces as the guardian of the Constitution, guaranteeing its emphasis on Westernisation, secular politics, civil order and national unity.

1960 also brought the question of Cyprus to the fore. In that year Britain gave independence to Cyprus with constitutional guarantees for the Turkish Cypriots. But in 1964 a Greek nationalist *coup d'état* in Cyprus threatened to remove the Turkish Cypriots' minority rights. Turkey's protests were disregarded by the NATO allies. The US Administration warned that any unilateral Turkish intervention in Cyprus would result, at least, in the suspension of Turkey's right to

⁷ The actual deployment of JUPITER missiles took place in late 1961, by which time they were obsolescent. Criss p 110. The missiles were de-commissioned in 1962 (and later removed) as a consequence of a secret agreement between the US and USSR at the time of the Cuban Missile crisis of October 1962.

collective defence under NATO's Washington Treaty.⁸ This response from the other NATO member-states caused deep resentment in Turkey. Another cause for resentment was the government's publication of the secret US-USSR agreement which had caused the JUPITER missiles based in Turkey to be decommissioned in 1962, in return for the withdrawal of Soviet missiles from Cuba. Following a long foreign policy reassessment Turkey insisted on adding to a new, renewable, bi-lateral defence agreement with the US to the existing NATO-standard Status of Forces Agreement (SOFA). The new agreement, the 1969 Defence and Economic Cooperation Agreement (DECA), asserted Turkish rights in respect of US (and all other foreign) forces based on Turkish territory.

In the late 1960s Turkey was once again threatened by civil disorder, as a result of an internal political crisis. By 1970 a succession of weak governments were unable to solve Turkey's serious internal problems: rapid growth in population combined with economic failures persuaded many country people to move to the cities. Slum shanty towns (*gekondus*: 'built-by-night') grew outside the cities. Crime and public disorder increased. In 1970 the armed forces intervened again, this time in a 'coup by memorandum'. The military did not formally take power, however, as it had in 1960. This time the generals selected civilian politicians to serve as ministers. They justified their action by declaring that the legacy of Atatürk was in danger: the political stalemate harmed the national interests and the recent advance of Islamism into the political life of the nation was unacceptable. This second military intervention caused severe repression of all dissident groups; its effect upon the Kurds was to polarise opinion. It was in the aftermath of this period of military rule that many Kurdish political groups - the 'associations of the East' - came into existence for the first time.

In 1974 the international oil crisis further undermined political cohesion. Politicians seemed unable to deal with the worsening cycle of crime, inflation and

⁸ This threat was delivered in the famous 'Johnson Letter', named after US President Lyndon B Johnson.

unemployment. In the climate of increasing anarchy political extremist groups arose. Some of these worked to create a socialist revolution⁹, others sought the liberation of long-oppressed minorities.

1974 also saw Turkey engulfed in a second major international crisis over Cyprus. After an outbreak of communal fighting Turkish forces invaded and occupied the north east of the island. NATO's member-states condemned the invasion. Their refusal to support Turkey's national interests caused a profound shift in public opinion in Turkey. The government then devised a 'multi-faceted' foreign and security policy. Turkey would remain a NATO member but it would thereafter show a greater openness towards neighbours and potential trade partners in the Middle East and the Caucasus. It would seek better relations with states like Syria and Iraq which were on bad terms with the US. Turkey began to play a more prominent role in the Islamic Conference.

Turkey's new policy was designed to preserve the full value of the NATO's strategic security guarantee but also to improve trade relations and regional cooperation with the USSR and other Black Sea and Middle East states. By this policy change Turkey signalled that the US should no longer rely on Turkey's unquestioning support for its policy objectives in the Middle East. Turkey would assess each issue in terms of its own interests.

Whereas Turkey would distance itself from the US in regional issues it could not easily achieve a substantially better relationship with the USSR. Turkish national interests were directly opposed by Soviet objectives in the eastern Mediterranean, in the Balkans, in the Black Sea, in the Caucasus. The Soviets condemned the Turkish 1974 invasion of Cyprus and the Turks condemned the Soviet 1979 intervention in Afghanistan.

⁹ The later notoriety of the PKK has caused many people outside Turkey to consider it the only terrorist group operating in Turkey. There are several others, such as *Dev Genc* and *Dev Sol*, two extreme leftist groups (with no Kurdish associations) which are just as active and violent as the PKK. They operate in the south and west of Turkey.

THE '12 SEPTEMBER' COUP AND THE ORIGINS OF THE PKK

In the late 1970s worsening economic, social and political conditions threatened public order throughout Turkey. On 12 September 1980¹⁰ the armed forces suspended all democratic institutions¹¹, took power and unleashed a wave of repression designed to eradicate crime and suppress political agitation.¹² This repression led many moderate members of minorities into supporting militant organisations.

The PKK, *Partia Karkaren Kurdistan*, was founded in 1978. It was established in Turkey before the coup but was able to move its headquarters to Syria before '12 September'.¹³ Originating in the Marxist *Dev Genc* (Revolutionary Youth) movement in 1974 the PKK under its first (and, so far, only) general secretary Abdullah Öcalan worked to bring revolutionary change in the Turkish state, first through a phase of recruitment and fund-raising (followed later by a campaign of 'armed propaganda').

The PKK set out to exploit conditions in eastern Anatolia, especially the plight of the poor, discrimination against women and the greed of feudal landlords. The first manifesto, *Kurdistan Devriminim Yolu* (Path of Kurdish Revolution) was published in a clandestine edition in 1977.¹⁴ The document laid down the objectives of the struggle:

¹⁰ The '12 September' coup imposed three years of authoritarian military rule on Turkey. When civilian rule resumed, in late 1983, changes in the Constitution made by the military government ensured that many of these restrictions continued for the next five years.

¹¹ All existing political parties were eventually banned and all practising politicians barred from holding office. These restrictions were written into the 1982 constitution but were progressively relaxed after 1986. The principal effect of the restrictions was to prevent existing parties and established leaders to content the 1983 elections. This allowed new political parties and leaders to take centre stage in the campaign.

¹² Whereas dissident Kurdish groups were politically active before the coup, and their members were sought by the authorities, they were not the principal target of repression. It was the leftist groups, and anarchists, who the authorities pursued. Even so the regime targeted prominent dissidents from all sections of the population, including many Kurdish activists in the south east.

¹³ Syria nurses several grievances against Turkey: France's transfer of Haytay-Alexandretta from Syria to Turkey (under the mandate) in 1945, Turkey's pro-US and pro-Israel policy from the late 1940s onwards and Turkey's controversial 'South Anatolia' (GAP) project. Under the \$ 32 bn GAP project Turkey has completed a network of dams and waterways which divert 50% of the headwaters of the Euphrates to irrigation schemes inside Turkey, to the detriment of Syria (and Iraq).

- The confiscation of landlords' estates
- The cancellation of peasants' debts
- The reform of the national economy towards a programme of industrialisation
- The development of a national Kurdish language
- The removal of all foreign military forces from Turkey
- Solidarity with revolutionary forces in Iraq, Iran and Syria
- Friendship with other socialist countries and national liberation movements abroad.

The PKK set out to recruit young Kurdish peasants and workers, rather than mature intellectuals who, in PKK propaganda, are typically accused of abandoning their Kurdish roots in the hope of advancement in the Turkish state and society. The PKK also worked to achieve dominance over the many other Kurdish revolutionary groups. This required the ruthless exploitation of the rivalries and personal differences of other Kurdish militants, often through the use of agents provocateurs. The PKK's most significant rival was the National Liberation [Army] of Kurdistan (KUK) which also presented a radical programme to the Kurds in Turkey.¹⁵ The PKK soon infiltrated and undermined the KUK; it was determined to establish itself as the only effective representative of Turkey's Kurds. It needed to persuade moderate Kurds that nationalism was compatible with Marxism: in the early days the PKK flag combined the traditional colours of Kurdistan with the Hammer and Sickle. (The Hammer and Sickle was removed by a decision of the PKK's Fifth Congress.) It was assisted in this objective by the repressive actions of the political Right in Turkey, represented by the police, the armed forces and political parties like the extremist NAP: Alparslan Türkeş' 'grey wolves'.¹⁶ To finance its activities the PKK carried out armed robberies and was active in smuggling and drug-running.

¹⁴ *Serxweun* (PKK 'Programme') February 1983.

¹⁵ Bozarslan p 102.

¹⁶ Türkeş, a former Army colonel, was a veteran ultra-conservative politician. He had been a leading member of the military faction which staged the coup in 1960.

(Various Kurdish groups had been carrying out armed attacks since 1974.) At this stage the PKK did not conduct terrorist operations against the government, or against the civilian population in general.

Before leaving office in 1983 the military regime took steps to ensure that the incoming civilian government would enforce 'national unity' measures. The 1982 revision of the Constitution placed additional restraints on expressions of minority cultures. It also confirmed the appointment of the officer who had led the military regime, General Evren, as president of the Republic. The parliamentary election in November 1983 brought Turgut Özal's party to power.

PRIME MINISTER OZAL, THE CAMPAIGN AGAINST PKK AND TURKEY'S RELATIONS WITH THE WEST

Turgut Özal's ANAP owed its victory, in part, to its success in attracting the 'Islamic' vote. As a practising Moslem (of the Nasquibendi sect) Özal was himself identified with the religious voter. He had selected ANAP's parliamentary candidates in 1983 and was thus responsible for the sizeable Islamist (and Nasquibendi) group of ANAP parliamentarians who were elected at that time. The Nasquibendi have strong links with the Sunni Moslems in the Gulf states. Turkey's relations with these states improved steadily through the 1980s.¹⁷

The incoming government faced a worsening security situation. During 1984 the PKK opened its 'armed propaganda' terrorist campaign directed, for the first time, against government representatives and members of the security forces, as well as its established targets: the 'collaborators and traitors'.¹⁸ It continued to gain many recruits, especially amongst the urban poor.

¹⁷ Ayata p 44. General Evren noted in his diary in 1986 that Özal was noticeably tolerant of religious attitudes towards political subjects. As a result Evren, a rigorous secularist, considered withdrawing his support for ANAP at the parliamentary election in that year. (Interview: William Hale, who has studied the unpublished Evren diaries.)

¹⁸ Ismet G Imset The PKK: a report on separatist violence in Turkey (Ankara: Turkish Daily News Publications, 1992).

Özal was forced to react to the upswing in the PKK campaign. His government at first tried to resolve the internal security crisis through military, rather than political, means. The centre of the PKK area, the south east, was designated the 'Emergency State Region' and placed under virtual martial law. The centrepiece of the policy was the '*koy korucusu*' (village guard) programme, begun in the summer of 1985, whereby Kurds would be armed and organised to protect their villages from PKK intimidation. This initiative was soon defeated by local tribal loyalties, however. The armed forces arrested many terrorist suspects, nonetheless. In the period 1983-85 prosecutors demanded the death sentence for over 600 persons convicted of terrorism.¹⁹

In 1987, after the first four years the PKK's armed propaganda campaign, the government faced steeply rising costs. The government's repressive tactics also brought international complaints of human rights abuses. So ministers began to look for a new approach. Pressure for a new strategy intensified after the double attack in the Yuvali and Pecenek, in Mardin province, in July. Thirty civilians were killed by PKK action. A Turkish journal declared:

For a moment last Thursday the Turkish state looked helpless and unable to root out terrorists.... The claims of successive Turkish governments over many years that the 'Kurdish question' does not exist has been discredited by events. What looked like a local insurgency has, since the start of this year, escalated into something like a full-scale guerrilla war.²⁰

The government's response was the 'political-military strategy', which would re-balance the political and military elements of the campaign against the terrorists. Its most novel and visible feature was the appointment of a senior intelligence officer, Hayri Kozacioglu, as a 'super-governor' for the Emergency

¹⁹ McDowell p 44.

²⁰ 'The PKK Challenge; What [is] the Next Step?' Briefing 13 July 1987 pp 3, 4.

State Region.²¹ Another feature was a massive military engineering effort to create a line of obstacles designed to reduce cross-border movement of people on foot in remote areas of the border with Iraq. The emphasis was on law enforcement rather than political dialogue.

In 1988 the end of the Iran-Iraq war led to a new wave of repression against the Kurds in northern Iraq. As a result of this, the *Anfal* campaign, 100,000 Iraqi Kurds took refuge in Turkey. Accommodated first in camps on the border (and later in central Anatolia) these Iraqi Kurds became an economic burden on the state. In 1991 - at the time of the next crisis - 30,000 of these people were still living as refugees in Turkey.

The Turkish government wanted to eliminate the PKK sanctuaries in Syria and Iraq. The Syrians refused to cooperate. The Iraqis were prepared to assist the Turks; they also wanted to remove centres of Kurdish armed resistance inside their borders. The Iraqi regime wanted to eliminate all Kurdish armed groups operating on Iraqi territory. Accordingly, in 1988, it approved a 'hot pursuit' arrangement whereby Turkish forces could cross the border to attack PKK units in Iraqi territory.

The Kurdish Democratic Party (KDP) in Iraq also agreed to cooperate with the Turks against the PKK, a rival for influence over the Kurdish people in the border area. It also wanted to remove PKK as a competitor in the lucrative (but illegal) cross-border trade with commercial interests in Turkey.

TURKEY AND THE EC

The turmoil inside Turkey from 1974, Turkish policy over Cyprus and the alleged abuse of human rights in the war against terrorism all presented a negative picture to Western states. When Turkey applied for the full membership of the EC in 1987.²² The EC's 'Opinion

²¹ 'The Powers of the Super-Governor' Briefing 20 July 1987 p 12.

Record on Turkey's Request' of 17 December 1987 deferred Turkey's full membership, until 1993 at the earliest.²³ Turkey's application has since been further deferred.

Frustrated by these delays, Turkey has since then been making an effort to improve its relations with the USSR²⁴ (later Russia), the Caucasus states (including Turkic-speaking Azerbaijan) as well as its immediate neighbours Iraq, Syria and post-revolution Iran.

The Özal government was determined to address international complaints over alleged human rights' abuse in Turkey. In 1990 Turkey became a signatory of the Charter of Paris.²⁵ It thereby accepted the human rights standards of Western Europe and undertook to abide by, and be inspected for, compliance with the Charter's norms.²⁶

SUMMARY

Since the early days of the 'new republic' of Atatürk in 1923 Turkey has sought national security and economic progress as a member of the Western group of states. Regional quarrels and internal upheavals inside Turkey have so far prevented the full achievement of these goals. At the heart of these problems lay two issues rooted in the past: the rivalry with Greece and the problem of minorities, especially the Kurds. Despite its support for Western security policy in the region, and despite its attempts to create a stable,

²² Turkey applied for Associate Member status in 1959 and received it in 1964. It applied for full membership in April 1987.

²³ Atila Eralp 'Turkey and the European Community in the post-war International System' in Canan Balkir and Alan M Williams (eds.) Turkey in Europe (London and New York: Pinter, 1993) p 37.

²⁴ A pipeline agreement was signed in 1984. Turgut Özal visited Russia, as prime minister, in 1986 and as president, in 1991. During those high-level visits Turkey signed agreements securing future oil and natural gas supplies. The two states signed a Friendship Treaty in March 1991.

²⁵ Richard Weitz 'Pursuing European Security' in Robert Keohane, Joseph S Nye and Stanley Hoffmann(eds.) After the Cold War: International Institutions and State Strategies 1989-1991 (Cambridge, Mass.: Harvard University Press, 1993) p 348.

²⁶ Turkey did not accede, however, to the Council of Europe's Framework Convention for the Protection of National Minorities (first presented in 1993 and in force in signatory states from 1 May 1998) which guarantees the rights of individual members of minorities and at the same time assures states that their sovereignty will not be undermined by the exercise of those rights. France and Belgium were the other non-signatories.

democratic political system at home, these two issues have frustrated successive governments and exposed Turkey to criticism from abroad. Unable to fulfil its long-standing foreign policy objectives Turkey has increasingly sought to broaden its policy, replacing its former unconditional commitment to the Western states with a desire to achieve good relations with all its neighbours. In 1991, following the end of the Cold War, this reorientation was still in transition. Political leaders and commentators in Turkey and elsewhere continued to debate the courses of action open to Turkey and other actors in the region.

GOVERNMENT DECISIONS DURING THE GULF CRISIS AND THE KURDISH CRISIS

The Gulf Crisis came just as Turkey was taking stock of the new post-Cold War conditions. Decisions involved difficult choices. First, the confrontation forced Turkey to choose between its Western allies and Iraq, a neighbour with whom Turkey had recently developed important economic and security relations. Less than full cooperation with the US, on the one hand, would have destroyed Turkey's hopes of becoming the US' strategic partner in the region, weakened its place in NATO and further delayed its accession to the EU. Assistance to the US, on the other, would have ended Iraq's cooperation with Turkey against the PKK. Second, the expected outcome of the confrontation (the defeat of Iraq) might have triggered the fall of the Baath regime and even caused the disintegration of Iraq, destabilising the whole 'northern tier'.

In any event Turkey's active participation would certainly result in great expense and would delay the state's modernisation plans. The government decided to enforce the UN sanctions, despite the costs, and to give limited assistance to the US-led coalition.²⁷ Compliance with UN sanctions was widely supported in Turkey. But cooperation with the US-led coalition in

²⁷ Özal was determined that Turkey should be an active player and be ready to claim the rewards of being on the winning side. Nicole and Hugh Pope Turkey Unveiled: Atatürk and After (London: John Murray, 1997) p 218.

military action against Iraq was controversial, amongst parliamentarians and in public opinion.

TURKEY AT THE TIME OF THE KURDISH CRISIS

At the time of the Kurdish crisis in Iraq Turkey faced three serious *domestic* problems. It is argued here that Turkey's response to the crisis - and its detailed decision-making during the three months of the multi-national intervention in northern Iraq - was significantly influenced by these problems.

The first problem concerned internal security. The government's failure to defeat the PKK had led ministers to adopt a new, controversial, policy to deal with the terrorist threat. It would increase the military pressure on the PKK but would also offer 'cultural recognition' concessions for Turkey's Kurds.

The second problem related to the economy. In early 1991 faltering economic growth and rising unemployment were causing great concern. Turkey had borne heavy expenses during the Gulf Crisis. Despite the assurances given by international contributors Turkey had received only part of the financial compensation - and no confirmation of the additional military aid - by April 1991.

The third problem arose out of the long-standing divisions inside ANAP, the government party founded by Turgut Özal. By 1991 the party was split into two powerful factions: the 'liberals' and the 'conservatives'. ANAP's declining popularity foretold defeat in the forthcoming parliamentary election, due to take place in 1992.²⁸ As the Kurdish crisis broke ANAP was preparing itself for the 1991 party congress where these deep divisions would have to be resolved.

²⁸ The record of ANAP's electoral in parliamentary and local government electoral performance since it first won power in 1983 shows a steady decline. Its share of the vote was as follows:

1983 (Parliamentary) 45.2%, 1984 (local) 41.5%, 1987 (parliamentary) 36.3%, 1989 (local) 21.8%.

[In the 1991 parliamentary election ANAP was to lose power.]

Source: Official results of elections provided by the Turkish Office of Statistics, published in Ergun Özdun 'Democratisation in the Middle East' Journal of Democracy 1996.

SECURITY

In the early months of 1990 the Turkish authorities had intensified the military campaign against the PKK in eastern Anatolia, forcibly resettling the inhabitants of many villages in Hakkari and Van provinces to more peaceful areas of the country. The military had increasing success in finding and destroying PKK units.²⁹

Throughout the Gulf Crisis Turkey had experienced increasing turmoil, especially in its eastern provinces. At the same time the PKK campaign had intensified despite the increasing tempo of Turkish military operations against it. Turkish land and air forces had conducted armed incursions into Iraq, on 5 August, 11 and 25 October 1990. The military claimed that these operations had been directed against PKK targets but critics complained that the only casualties had been innocent and defenceless villagers. Relations between the Turkish authorities and the KDP - which had previously cooperated with the Turkish authorities against the insurgents - had become strained.

During March and early April 1991 international sympathy for the plight of the Iraqi Kurds encouraged Turkey's Kurds to increase the pressure on their own government to make concessions on 'Kurdish rights'. The revolt in northern Iraq provoked demonstrations in support of Iraq's Kurds in the south east of Turkey. On 21 March (Narwos - the Kurds' national day) there were demonstrations calling for 'Kurdish rights' in many cities in eastern Anatolia but also in Adana, Izmir and Istanbul.

To break the cycle of escalation Özal and his advisors decided to introduce the long-planned 'dual strategy' (or 'balancing strategy') for resolving Turkey's Kurdish 'problem'.³⁰ The new approach would update the

²⁹ McDowell p 52.

³⁰ The new 'dual strategy' strengthened the powers of the super-governor of the Emergency State Region.

1987 'political-military strategy'. It would revive the military campaign and, for the first time, offer concessions to the moderate Kurds.³¹ The keystone of the political approach was a proposal to amend the 1982 constitution.³² These draft amendments - to Articles 141, 142 and 163 - proposed the repeal of repressive legislation underpinning the previous 'assimilation' policy. Laws forbidding Kurds from expressing their cultural identity would be removed: the wearing of Kurdish dress would cease to be illegal. Prohibitions on people speaking Kurdish languages in public places would be removed. (The ban on the use of the Kurdish language in print was retained.) An 'amnesty' provision - for parole for those convicted of certain categories of 'political' crimes and the commutation of some death sentences - accompanied these constitutional proposals. In a separate but related initiative the government proposed to lift the ban on the communist party (which had many Kurdish members). Oçalan announced that the PKK did not seek separation from Turkey, just autonomy for the Kurdish areas of the country.³³

The constitutional amendments offered limited recognition to minorities. But at the same time the government introduced heavier penalties for convicted terrorists and all who sought 'to change the character of the state'. These measures were known as the 'Anti-Terror Law': *Karaname* (decree) 413 and 424.³⁴ Many Kurds, and their supporters abroad, saw this 'dual' approach as a trick.

Consequently Özal's efforts to open up the Kurdish question proved ineffectual in practice and Turkey commenced a new era of political repression and military aggression towards all sections of Kurdish society. At the same time Turkey began to play a new game with the Kurds. By pretending to help them it sought to demonstrate concern for Kurdish

³¹ Briefing 15 April 1991. 'Historic changes provoke new arguments as goals empty.'

³² See p 92, above.

³³ *Hürriyet* 1 April 1990.

³⁴ Helsinki Watch 'Turkey Restrictive New Anti-Terror Law' 10 June 1991.

people to the West and silence criticism of the dirty war raging in Turkey.³⁵

The 'dual strategy' was, in fact, a coherent policy designed to bring about a negotiated settlement with the PKK. The concessions were designed to detach the Kurdish moderates from the extremists. The new legal powers were to strengthen the on-going campaign against the terrorists. Conservative elements in Turkish society - especially the Turkish Armed Forces - were, nonetheless, alarmed at what they saw as a softening of the military campaign. On 11 April after a stormy, 13-hour, session in parliament the measures were approved. The issue split ANAP, however. Conservatives opposed making any concessions to Turkey's Kurds.

The adoption of the 'dual strategy' compelled Özal to acknowledge, a few weeks later, that the previous course of action had been misguided. 'A policy of repression was adopted with the aim of assimilating them. This was a mistake.' On another occasion he said: 'The government is engaged in a quest for a serious model for solving the Kurdish problem in a manner which goes beyond police measures'.³⁶

One of the first results of the new strategy was a meeting in Ankara, on 9-10 March, where Jalal Talabani (PUK) and Mohsin Disai (KDP) conferred with Tuncay Uçeri, a senior Foreign Ministry official.³⁷ For the Turks the public meeting was itself a significant concession: to meet a Kurdish delegation, even one from a foreign state, was a *de facto* acknowledgement of the political identity of the Kurdish people. But the Turks needed information and assurances: information about the Kurdish revolt, then at its height in Iraq, and assurances that the Iraqi Kurdish parties would, as

³⁵ Bulloch and Morris p 106.

³⁶ Muserref Seckin and Ilter Sagirsoy 'Measures to Solve the Kurdish Problem' Noctar 3 June 1990 pp 17-22.

³⁷ Jonathan Randal provides a detailed account of the diplomacy and decision-making which surrounded this meeting. He also relates how it took several weeks for political leaders and commentators - across the political spectrum - in Turkey to modify their initial shock at the news of this meeting. 'After Such Knowledge' pp 94-5.

before, prevent PKK fighters from crossing the border into Turkey.

The government then announced the amnesty - more exactly the immediate grant of parole to many of those serving prison sentences (and the commutation of death sentences)- for those convicted of 'separatist crimes'. As a result 43,000 of the 46,000 prisoners in eastern Anatolia were released and 270 death sentences were commuted.³⁸

The Kurdish crisis occurred at a time when the Kurdish issue in Turkey was at its most sensitive. The controversial 'dual strategy' had been launched but had not had time to produce results. A massive inflow of Iraqi Kurd refugees into south-east Turkey might have wrecked any chances of success for the 'dual strategy'. But the multinational intervention to create 'safe havens' inside Iraq - although first proposed by the Turkish president - might have encouraged Kurdish 'national' aspirations. As PROVIDE COMFORT proceeded many Turkish officials became uneasy about US and UK policy towards the Iraqi Kurds. They suspected a 'hidden agenda', encouraging the creation of an independent (or autonomous) Kurdistan in northern Iraq. Either development would have destabilised south-east Turkey. Turkey's ambivalent conduct towards PROVIDE COMFORT reflected these uncertainties.

THE ECONOMY

Turkey also faced an economic crisis. The government had imposed economic sanctions on Iraq on 7 August 1990, in accordance with UN R 661.³⁹ These included shutting off the flow of crude oil (on 8 August) through the Kirkuk-Yurmurtalik pipeline which connects the Iraqi oilfield with refineries on Turkey's Aegean coast. This step was to cost Turkey billions of dollars in lost revenue.⁴⁰ The cost of sanctions aggravated

³⁸ Bulloch and Morris p 166.

³⁹ UN SCRs required states to freeze Iraq's foreign financial assets (and Kuwaiti assets controlled by Iraq). Turkey complied with this requirement.

existing economic problems: in early 1991 the government was struggling to restrain the state industry workers' demands for better pay. By the end of the Gulf War Turkey was faced with an annual current account deficit of \$2.6 bn. One estimate of the total costs of Turkey's contribution to the Gulf crisis (to May 1991, is \$9 bn⁴¹). Turkey already owed the US \$7 bn for earlier military purchases, out of a total foreign debt of \$40 bn.⁴² Inflation in 1990 had been 50-60% but in 1991 consumer prices rose by 6.6% in the month of April alone.⁴³

Özal and Akbulut's visited the US from 22 March to 2 April. They asked the US Administration to persuade other states to honour the pledges of financial support they had made during the Gulf War. By that date Turkey had received \$3.4 bn but was still waiting for \$1.3 bn [from Kuwait (\$900m) and Abu Dhabi (\$400m)]. The Turks also asked the US for a temporary loan of \$1 bn. During the visit Özal received an additional \$200m from the US, \$25m from Canada, and a loan of BF 300m (\$90m) from Belgium.⁴⁴ On the strategic level Özal took the opportunity of a Camp David weekend with the president to discuss Turkish-US security relationships in the future. He proposed that the US and Turkey should establish 'a more formal security relationship' like the relationship between the US and Israel.⁴⁵ He repeated his request for PATRIOT missiles to help defend Turkey from future Iraqi SCUD attacks. (This request was refused.) Özal was really asking for public

⁴⁰ This sanction alone cost Turkey's economy \$ 750,000 per month. Mahmut Bali Aykan 'Turkey's Policy in Northern Iraq 1991-95' Middle Eastern Studies No 4 October 1996 p 353.

⁴¹ Zurcher p 319. Freedman and Karsh estimate \$ 7 bn. The Gulf Conflict 1990-1991 (London and Boston: Faber and Faber, 1993) p 352. William Hale's assessment, for the Economist Intelligence Unit, is \$ 2 to \$ 2.5 bn annually. Hale 'Turkey, the Middle East and the Gulf Crisis' International Affairs 68 4 1992 Note 11. Other authorities assess the total loss to Turkey, as at August 1993, at \$ 20 bn. Milliyet 15 August 1993 p 14.

⁴² Stephen C Pelletière 'Turkey and the United States in the Middle East: the Kurdish Connection' in Johnson, Pelletière and Blank (eds.) Turkey and the United States in the Middle East (Carlisle, Pennsylvania: US Army War College, 1993) p 101.

⁴³ Briefing 13 May 1991 'April inflation boosted by public sector hikes'.

⁴⁴ The US later provided an additional \$ 82m in aid to Turkey. But in May the Congress rejected the Administration's proposal for an additional tranche of \$ 625 m in aid and voted to maintain the 7:10 formula for balancing aid to Turkey with aid to Greece. Turkey has long argued that it deserves more US support and that Greece deserves less. 'US Gives Turkey \$ 82 Million More in Military Aid' International Herald Tribune 11 February 1991, 'Turkey Says Assistance Falls Short of Needs' Defence News Washington 3 June 1991, 'US House Committee Keeps 7:10 Ratio' Turkish Daily News 24 May 1991, 'Missing Dividend' Time 3 May 1991.

⁴⁵ Briefing 1 April 1991 'A Happy time for Özal but no clear benefits for Turkey'.

signals of support for Turkey from the US.⁴⁶ A visible commitment would deter potential attackers and also help to silence the government's critics at home.

From the beginning of the year a wave of labour unrest hit Turkey: at one time 1.5 million union members were on strike. In January ten thousand miners from Zonguldak marched to Ankara to protest at their low wages. A 5-week strike by Turkish Airlines' staff began in late March. Other unions prepared for a general strike in May and June.⁴⁷ The budget deficit in 1991 rose to 12% of GDP. The economic situation was deteriorating just as Turkey's international problems were at their height. (Later, during a visit by Tariq Aziz, the Iraqi deputy prime minister, in early June, the opposition SDPP appealed to the government to protect the Turkish economy by suspending sanctions against Iraq.⁴⁸)

Within weeks the Kurdish crisis brought a new financial burden: thousands of would-be refugees were about to cross the border into Turkey. In April and May 1991 Turkey's costs amounted to \$ 1.5m per day.⁴⁹ In May an IMF mission visited Turkey.

Turkey had learnt from its recent experience not to count on aid from abroad when dealing with refugee crises. During the Iran-Iraq War as many as two million Iranians had travelled through Turkey as refugees to escape the war. Many had stayed. The arrival of 100,000 Kurds in Turkey in 1988 after the *Anfal*, as well as the in-flow of a similar number of ethnic Turks from Bulgaria the following year, had imposed significant costs on the state budget. In early 1991 30,000 of these Iraqi Kurds were still in camps in Turkey,

⁴⁶ Özal sought similar military assistance as the US had offered to Israel - in return for a secret commitment that Israel would not retaliate against Iraq if attacked - in January 1991, before the start of the Gulf War. Freedman and Karsh p 295.

⁴⁷ Briefing 17 June 1991 'Mass strike threat overhangs public sector'.

⁴⁸ Briefing 17 June 1991 'Aziz visit brings dialogue but no break through'.

⁴⁹ Aykan p 345.

dependent on Turkish aid,⁵⁰ even though living conditions in the three camps (Diyarbakir, Mus and Kiziltepe) were primitive. There are also reports that foreign donors had, in fact, offered aid for the improvement of these peoples' conditions but Turkey had refused to accept this aid. It is said that Turkey wanted to avoid giving any encouragement to the migrants to remain in Turkey for a protracted period. Aside from aid, on both of these occasions - the Iraqi Kurd and Bulgarian episodes - the Western states had offered homes to only 500 of the refugees. There are also accounts of forcible repatriation of migrants, in contravention of international refugee protection norms. The prospect of a migration of hundreds of thousands of Iraqi Kurds into Turkey's Emergency State Region threatened worse trouble from Kurdish militants and significantly higher welfare costs for the state.

The Kurdish crisis, when it occurred, presented the Turks with the prospect of another unquantifiable financial burden. It came, moreover, just as Turkey came to realise that its hopes for progress in its application for full membership of the EU would not be achieved, even after its efforts in support of Western states in the Gulf crisis.⁵¹ Indeed those states which had (apparently) refused to assist Turkish humanitarian efforts in past crises were about to criticise it for its 'inadequate' response to the plight of the latest wave of refugees. Turkey's insistence on the safe haven concept - the relief of the people inside Iraq, not in Turkey - should be understood in the light of its financial crisis and its past experience.

POLITICAL DIVISIONS INSIDE ANAP

In 1990 the Gulf Crisis had also brought turmoil to the political scene in Ankara. Özal favoured a policy of vigorous support for the coalition, despite consistent

⁵⁰ Entessar p 108.

⁵¹ Edward Mortimer 'Problem Awaiting Solution' Financial Times 5 May 1991. In fact the EC did offer one 'reward' in return for Turkey's cooperation over the Kurdish crisis. On 30 September Greece withdrew its objection to a meeting of the Association Council which brought together EC and Turkish representatives to discuss Turkey's accession. The result was agreement on a 'functional package' of agreements on trade. Christopher Brewin 'Turkey and the European Union' Cambridge Review of International Affairs Vol X No 1 1966.

opinion poll evidence that at least two thirds of the Turkish electorate preferred neutrality to active involvement in the crisis.⁵² After the adoption of R 678 (in November 1990) Özal proposed that Turkey should send forces to assist in the defence of Saudi Arabia, as requested by the US Administration. The Turkish parliament, dominated by ANAP, approved. But a further proposal, that Turkish forces should take part in a future attack on Iraq, was vehemently opposed by the military and the Foreign Ministry. Özal later claimed that the proposal was just a precaution.

The parliamentary authority to send Turkish troops outside our borders is a precautionary measure. I emphasise that the Turkish armed forces will not engage in any operations against Iraq unless we are attacked. We do not covet Iraq's, or any other country's, soil nor is an inch of Turkish territory negotiable.⁵³

Domestic opposition to Özal's policy in the Gulf Crisis grew. Many believed that the president's policy was wrong: for Turkey to identify itself with the US and the western Europeans in their confrontation with an Arab state would be against Turkey's longer-term interests.

Turkey's foreign policy in the 1980s was the so-called 'multi-faceted' policy which combined solidarity with NATO against the perceived Soviet threat with an open door to the wider Middle East, including Israel and Iran.⁵⁴ The critics, therefore, would have preferred Turkey to take a more neutral stance in the Gulf crisis: observance of UN sanctions against Iraq but refusal to extend military facilities to the coalition.

⁵² Wall Street Journal 6 December 1990. This was interpreted as not so much a feeling of support for Iraq as a desire that Turkey should not thereby become directly involved in a war with Iraq.

⁵³ Turgut Özal "Turkey, an Unwanted War 'became unavoidable'" International Herald Tribune 23 January 1991.

⁵⁴ See p 89 above.

The general approach of Turkey's 'multi-faceted' foreign policy was as follows:

Towards Europe and the US:

- willingness to remain a full and vigorous partner in NATO
- efforts to achieve international support in its disputes with Greece over Cyprus and other eastern Mediterranean issues
- desire to become a full political and economic partner of the West European states through its application to become a full member of the EC, and the WEU

Towards the Middle East and the Caucasus:

- non-interference in the domestic affairs of Middle East states
- non-interference in the disputes between states in the region, particularly disputes between Arab states
- an even-handed approach to the Israel-Palestinian question
- development of bi-lateral relations with all states of the region
- maximisation of trade and economic relations
- efforts to coordinate action with Syria and Iraq to defeat the PKK
- efforts to establish itself as a leading state in the Islamic Conference
- development of 13-member 'Black Sea Economic Cooperation Zone' (BSECZ).

Özal's ready compliance with US requests, including the imposition of UN sanctions against Iraq, at great expense to Turkey⁵⁵, was controversial. The proposal that Turkish ground forces should be sent to fight alongside other coalition forces in Saudi Arabia and his endorsement of the coalition's request for military facilities in Turkey alarmed many parliamentarians, across the political spectrum. The most significant opposition came from a group of dissident MPs in the governing party, ANAP. These members were led by Mersut Yilmaz, a former foreign minister who had resigned in

⁵⁵ See p 102, above.

February 1990 in protest at the president's interference in the conduct of foreign policy. In October, Yilmaz' successor as foreign minister, Ali Bozer also resigned.⁵⁶ Weeks later the Armed Forces Chief of Staff, General Necip Torumtay⁵⁷ also resigned. Although observers reported that Torumtay's resignation was a protest against Özal's policy, the general himself did not issue a public statement of disapproval, as many had expected.⁵⁸ Torumtay resigned in silence.

After Bozer's resignation Özal appointed Ahmet Kurtcebe Alptemocin to replace him. In December the popular defence minister, Safa Giray, like Yilmaz a veteran of ANAP's liberal wing, suddenly resigned after seven years as a cabinet minister, apparently dismayed by the 'conservative' direction of government policy. He was replaced by Husnu Dogan, a relative of Özal's. (The president's brother, Yusuf, was already a prominent ANAP politician and the chairman of the parliamentary finance committee.) Accusations of nepotism followed. (Dogan himself resigned a few weeks later, as a result of wrangling inside ANAP.)

William Hale attributes the Bozer and Torumtay resignations more to pique over the lack of consultation than a substantive disagreement over policy.⁵⁹ For example Torumtay was enraged when he discovered that Özal had drawn up his own plan for the defence of Turkey in the event of an Iraqi attack during the Gulf War.

⁵⁶ As minister for trade in August 1990 Boser had only learnt of the decision to shut off the oil pipeline from Iraq from journalists. After Yilmaz' resignation he became the foreign minister but resigned after a few weeks. During the official Turkish visit to Washington he had been annoyed at his exclusion from the Oval Office while Presidents Bush and Özal, together with James Baker, discussed foreign affairs. The issues discussed included the recent resolution of the US Senate which had favoured Orthodox Christian Armenia in its dispute with Islamic (and ethnically Turkic) Azerbaijan. Boser resigned as soon as the delegation returned to Ankara. When the outcome of the president's visit was publicised there was an angry debate in the Turkish parliament. The government imposed restrictions on US military activity in Turkey and even held out the possibility of the termination of the Defence and Economic Cooperation Agreement (DECA) see p 79 above.)

⁵⁷ Briefing 11 March 1991 p 9.

⁵⁸ Torumtay did not voice his criticisms of the government's conduct in the Gulf Crisis at the time. He did however write a critical account of events in his memoirs Necip Torumtay '*Orgeneral Torumtay'in Anıları*' (General Torumtay's Memoirs) (Istanbul: Milliyet Yayinlari, 1994) p 98.

⁵⁹ 'Turkey, the Middle East and the Gulf Crisis' International Affairs 68, 4 (1992) pp 679-92.

Özal's critics also accused the president of dictatorial conduct. They said he had, since the early days of the Gulf Crisis, usurped the powers of the prime minister and had failed to consult other important persons and groups before taking far-reaching decisions on national security. For the president to take such an individual policy-making and diplomatic role is at odds with the traditions of Turkish government.⁶⁰ The media, furthermore, objected to his 'aloof' manner.

In a recent article Mahmut Bali Aykan challenges the charges laid against Özal. He states that the president did, in fact, consult his colleagues. His policy was, furthermore, in accordance with national interests and followed the established foreign policy line:

As for the part played by President Turgut Özal the record does not entirely support the one-man show thesis.⁶¹

Aykan argues that whereas Özal's critics accused him of following a new and personal policy he was in fact consulting other political actors at this time and was merely adapting the established 'multi-faceted policy' in the new circumstances. If the purpose of that policy is seen as 'promoting regional stability' then, Özal's supporters can argue, 'stability' required action to deal with the cause of the turbulence. Özal's working methods may have been unusual, but that is not to say that his control of events was unconstitutional. Again, it could be argued that the president's policy reflected more than a meek obedience to the USA: it showed a proper respect for the UN and the mandatory resolutions of the Security Council. This analysis of the president's conduct is at odds with the consensus view.

Another cause for complaint was Özal's association with religious people - his own Nasqibendi associations were mentioned - and his alleged support for 'Islamic'

⁶⁰ Source: conversation with William Hale 30 March 1994. See also William Hale in Middle East Contemporary Survey for 1990 (Boulder: Westview, 1993) and also Mehmet Birand Milliyet 5 December 1990.

⁶¹ Mahmut Bali Aykan 'Turkey's Policy in Northern Iraq 1991-95' Middle Eastern Studies No 4 October 1996 pp 343-366.

policies, despite the constitutional requirement for 'secularism'. Özal was known to be a practising Moslem and had undertaken the pilgrimage to Mecca. His personal religious convictions were neither unusual nor controversial. The complaint of the secularists was that Özal was in favour of an Islamic approach to political and legal questions in Turkey. It was also well known that he had first stood for parliament for a party which had Islamic leanings. General Evren in his 6-volume diary records his concerns about Özal's Islamic leanings. Before the parliamentary election in 1986 Evren - a staunch secularist - considered withdrawing his endorsement of ANAP on these grounds.⁶²

Özal defended his policy by declaring that Iraq under the Baath regime was a threat to Turkey. Turkey had no quarrel with the Iraqi people but the Iraqi regime was guilty of aggression and threatened the stability of the region.⁶³ Özal's stated aim was limited and defensive:

[We aim to] to steer our country out of the present crisis without sustaining serious damage.⁶⁴

Later he said:

Doesn't anyone think that such an aggressive country will, in the future, constitute a problem for us as well?⁶⁵

In his view the coalition would deal with Iraq's aggression and so remove a potential threat to Turkey. Furthermore as a partner of the coalition Turkey would have a voice in the post-crisis settlement.⁶⁶ In the medium term Turkey's assistance to the US in the crisis would probably ensure increased US support for Turkish security interests, despite the end of the Cold War.

⁶² Hale interview 30.4.94.

⁶³ FBIS Western Europe 4 February 1991.

⁶⁴ FBIS Western Europe 7 January 1991.

⁶⁵ FBIS Western Europe 23 January 1991.

⁶⁶ Kushner p 211. Özal had publicly stated that neutrality had served Turkey ill in the past. He maintained that if Atatürk's successors had abandoned neutrality and joined the Allies earlier during the Second World War Turkey would have gained 'twelve islands'. 'Akbulut seeks compromise after chaotic convention' Briefing 11 March 1991.

Özal identified the imminent Gulf War as qualitatively different from past US interventions in the region. This time the US-led coalition would be 'authorised' by the UN. The coalition forces would include contingents from several Arab states. Others would make financial contributions. International public opinion was clearly in favour of intervention. For Turkey to support the coalition was, in any case, in accordance with the underlying purpose of its established 'multi-faceted policy': it would restore the regional status quo which Iraq's invasion of Kuwait had overturned. After Iraq's destabilising invasion had been reversed Turkey would be able to return to a policy of 'non-intervention' in Middle East politics. It might even play a prestigious role in healing the rift between Iraq (after the removal of the Baath regime) and the Western states. Turkey's support for the coalition would also gain respect and prestige for Turkey from its Western allies: it would be seen not as a redundant Cold War ally which should now be discarded but as a major contributor to peace and stability in the region.

[Özal]realised that Turkey had lost most of its strategic significance as a bastion against the Soviet Union, which had been its most important bargaining chip in seeking membership of the EC and generally securing Western support. He saw Turkish participation in the coalition as a way to emphasise Turkey's status as a western stronghold in the Middle East and perhaps even to force Turkish entry into the European Community, very much in the way Menderes had secured Turkey's membership of NATO by sending troops to Korea.⁶⁷

Following the US request for authority to use the facilities at Incirlik for the air campaign against Iraq Özal tried to forestall criticism that his policy would expose Turkey to attack from Iraq. Accordingly he requested the deployment of the ACE Mobile Force (Air) to Turkey. This force deployed to

⁶⁷ Zurcher pp 317-18.

Turkey: forty-two combat aircraft, plus ground-based air defence systems, arrived and remained until the end of the war.⁶⁸

Turkey's decision to support the Gulf War coalition, though opposed by some groups in parliament, received a measure of public approval.⁶⁹ But support for the coalition in the Kurdish crisis was more controversial. The result was ambivalence in Turkish policy throughout the approaching Kurdish crisis. As discussed below in Chapters 8 and 9 the high-level cooperation of the government was accompanied by a degree of obstruction by lower-level officials.⁷⁰ There was also public suspicion and criticism of the government's 'subservience' to the West.

On 15 January the Turkish cabinet approved a US request for the use of Incirlik for 'humanitarian and limited logistical support' for its intended combat air operations flown from Saudi Arabia and the Gulf states against Iraq.⁷¹ The Cabinet deferred a decision on a further request that US air forces should also be allowed to fly combat missions from Incirlik over Iraq. On 17 January this further authority was granted when parliament approved the 'Extended War Powers Act', by a vote of 250 to 148.⁷² (In previous Middle East crises Turkey had only approved the use of Incirlik for 'humanitarian tasks' as in the 1970 evacuation of US civilians from Jordan during the civil war, and another evacuation, from Iran at the time of the revolution in 1979. In 1982 during the crisis in Lebanon Turkey had permitted the US the use of Incirlik in the withdrawal of its contingent from Beirut after the bomb attack in which 240 US Marines had been killed. This permission

⁶⁸ The AMF(A) contingent comprised air defence aircraft (MIRAGE 2000, ALPHAJETS and F-104) plus a total of 500 personnel from Belgium, Germany and Italy. The force deployed to Erhac AirForce base, near Malataya. Briefing 7 January 1991. The AMF(A) aircraft took no part in offensive PROVEN FORCE operations against Iraq. Freedman and Karsh p 353.

⁶⁹ Zurcher p 319.

⁷⁰ See pp 210 below.

⁷¹ The first request concerned stationing airborne early warning (AEW) aircraft and combat search and rescue (CSAR) services at Incirlik to support air operations conducted out of Saudi Arabia and elsewhere.

⁷² Aybet p 17.

was in fact obtained only after Saudi Arabia had urged Turkey to agree.) Flying operations began from Incirlik on 18 January⁷³ and continued throughout the war.

In April, as the new coalition addressed the Kurdish crisis, the US request for the use of facilities at the Incirlik revived the same concerns in Turkey that had been voiced during the Gulf War. Critics accused Özal of having failed to achieve the expected rewards for Turkey's cooperation in the Gulf crisis⁷⁴ and of subordinating Turkey's interests to those of the US. A leading newspaper spoke out:

It is a sense of quite genuine concern that Turkish foreign policy is being conducted by the president alone. Sometimes connected with this is the view that Özal is acting on behalf of foreign interests, most specifically the [US].⁷⁵

During debates in the Turkish parliament over the US request for facilities Özal's critics added another charge to their list: the government was not only 'subservient' to Western interests but it was also encouraging a new 'interventionist' style of US crisis-management, a development which would threaten regional stability in the future.

President Özal's critics were not only concerned about the substance and style of the government's past and present policy on Iraq, however. This foreign policy question was a part of a more fundamental debate inside ANAP over the longer-term direction of the party. The contest between the liberal wing, the Özal loyalists and also the conservative-Islamists was coming to a head just as the Kurdish crisis broke.

The long-suppressed divisions inside ANAP had begun to surface in February and March. They all stemmed from Özal's decision to accept nomination to replace

⁷³ Aybet p 18. A total of 50 A-15, A-16 and A-10 aircraft, plus additional combat support and transport aircraft.

⁷⁴ Aybet pp 18-19.

the outgoing president, General Kenan Evren, when his 7-year term came to an end in 1989.

Özal's decision had been controversial: the past presidents of the Republic had been notable men from a non-political background, often from the ranks of the military. For Özal, a working politician, to take the post raised the prospect of a 'political' president. Some Turks found this disquieting. However the military declined to nominate a candidate so Özal received parliament's endorsement.

Özal had insisted on the appointment of Yilderim Akbulut, one of his own closest supporters but a weak and unpopular figure, as his successor as prime minister. This appointment had deepened the existing divisions in ANAP. In the first months of 1991 - over a year later - the two opposing wings of the party were still manoeuvring to install one of their own number as prime minister. Furthermore the replacements for the ministers who had resigned in the earlier months of the crisis did not inspire confidence in the party or the public.

The divisions inside ANAP even undermined party discipline in parliament: the liberals objected to a major piece of government legislation - the amnesty (part of the 'dual strategy') - in order to embarrass Akbulut and the Özals.⁷⁶

Observers expected that the tensions inside ANAP would be resolved in the annual party national congress, planned for June. Özal, as head of state, was constitutionally barred from attending the party congress so he arranged that his wife, Mrs (Semra) Özal, would appear in his place. She would first stand for election for the influential post of the chairman of ANAP's Istanbul province. By campaigning on behalf of his wife Özal departed from the absolute political neutrality in party politics traditionally shown by the

⁷⁵ Briefing 11 March 1991 'Akbulut seeks compromise after chaotic convention'.

⁷⁶ The SDPP and DYP opposition parties supported the proposed amendment. The only opponents were the ANAP liberals and, outside parliament, some officials at the Justice Department.

president. Here he not only showed an undue interest in the activity of one party but involved himself in controversies and divisions within that party.⁷⁷

At ANAP's Istanbul provincial congress, held on 3 March, the presiding official - Mustafa Tazar, the minister of state, and an Özal supporter - sensationally annulled the poll before the final ballot totals were declared. It was widely supposed that he had done so because he could see that Mrs Özal was about to lose the election to her opponent, the combative Talat Yilmaz, the party chairman from the Fatih district of Istanbul. The vote was postponed till 28 April, after the end of Ramadan. It was the (conservative) defence minister Hosnu Dogan's opposition to Mrs Özal's candidature - on the grounds that the election would give advantage to the party's liberal wing - which brought about his dismissal from the government. At the next attempt Mrs Özal was duly elected. The president was then criticised for attempting to dominate the congress through the presence of his wife. Mrs Özal was herself increasingly accused of behaving in an imperious manner. Dogan was replaced by Mehmet Yazar.

In separate speeches on 19 May - the anniversary of Atatürk's 1919 landing at Samsun - opposition party leaders Inonu and Demirel criticise Özal's conduct as president⁷⁸, especially his alleged subservience to foreign interests. ANAP's poll ratings continued to

⁷⁷ He did, however, absent himself from Turkey during the party conference. He was in Moscow 11-16 March undertaking the first visit by a Turkish president for 22 years. [He had visited the USSR in 1986, but as prime minister.] On 12 March he signed a Soviet-Turkish Friendship Agreement. This visit was the culmination of diplomacy stretching back to 1984 when Turkey had agreed to improve relations with the USSR and had signed a Natural Gas Agreement. In this agreement Turkey would import 120m cu metres of Soviet gas over the next 25 years. Turkaya Ataov 'Turkey and the CIS and Europe' in Balkir and Williams (eds.) p 197.

⁷⁸ SDPP leader Erdal Inonu repeated the criticism of Özal's assumption of the presidency in 1989. He also accused the president of unconstitutional conduct during the Gulf crisis. In fact Özal had offended many groups in Turkish society during his presidency. He had angered the low-income workers by urging pay restraint; he had then annoyed poor people by his extravagant lifestyle. (For example the lavish 'high society' wedding reception held for the Özals' son, Efe, in March.) At the same time there were reports of expensive improvements - such as the "TL 5m chandeliers scandal" - carried out in the presidential residence, with the contracts going to foreign firms.) He also offended bureaucrats by ignoring or circumventing them. He angered the judiciary with his attempts to install supporters in the Constitutional Court. Intellectuals were alienated by Özal's apparent reluctance to deal with the abuse of human rights. The military were offended by at being left out of strategic planning; hence the Torumtay resignation. Islamic people were annoyed at Mrs Özal's prominence in political matters.
Briefing 20 May 1991 'Özal confident as ever despite approaching danger'.

fall. On 27 May the approval rate for the government reached a new low: 14%.⁷⁹ On 23 May the *Jandarma* commander in Adana, Temel Cingoz, and a retired general living in Ankara, Ismail Selen, were assassinated by unknown gunmen.

In debates at ANAP's national congress in June the 'conservatives' were led by Mehmet Kececilar (ex-mayor of Konya, an Islamist and at that time 'minister of state')⁸⁰ and the 'liberals' by Mesut Yilmaz, the former foreign minister, and a secularist. The key event of the congress was the election of the party chairman.⁸¹ The candidates were Akbulut, Yilmaz and the nationalist Hasan Celal Guzel.⁸² Akbulut, in post at the start of the congress, had been ridiculed for months in the Turkish press (for his subservience to Özal⁸³, and the circumstances of his appointment). Özal had become alarmed by the vehemence of the Islamists. Despite his own religious convictions and his earlier support for this wing of the party⁸⁴ (as well as his personal dislike of Yilmaz) he abandoned his own candidate and endorsed the liberal candidate.⁸⁵ Yilmaz was elected congress chairman and shortly afterwards replaced Akbulut as prime minister.⁸⁶

⁷⁹ Briefing 27 May 1991.

⁸⁰ The issue of fundamentalism continued to form a theme in Turkish politics. In 1991 there was wide public concern about fundamentalism within the armed forces. According to media reports 150 air force officers had been dismissed for this reason in the recent past. Briefing 11 Jan 1991 p 9.

⁸¹ In the Turkish system the person elected as congress chairman of the ruling party becomes the party leader and, if the party is in government, he or she becomes (or is confirmed as) prime minister.

⁸² Akbulut had defeated Guzel, thanks to Özal's influence, at the national convention in 1989 after Özal had relinquished the party post on becoming president.

⁸³ An example of this was the ridicule heaped on Akbulut after he had ordered his ministers to parade at the airport to welcome the Özals home from an official visit to the USA (on 1 April). In the press and in parliament opponents, led by the conservative Necdet Tarik Piskin (ANAP chairman in the Uskudar district of Istanbul), derided the ANAP ministers as 'Özal's poodles'. Briefing 8 April 1991 'Akbulut retreats on Amnesty as ANAP debates "poodles"; Ruling party largely incapacitated by power struggle.'

⁸⁴ Özal had first stood for parliament in the 1976 election on a NSP (Islamic party, forerunner of Refah) ticket.

⁸⁵ Özal eventually put aside his own personal feelings of dislike and distrust backing Yilmaz because he wanted the most popular man to lead ANAP into the forthcoming elections. He saw Yilmaz as a politician with a modern 'Western' profile and therefore more attractive to the key elements of the electorate than either Akbulut or Guzel. Ayata p 45. Özal also believed that he could better control a Yilmaz government than one dominated either by Islamists or nationalists. Briefing 6 May 1991 'Semra Özal's election prompts early election expectations'.

The crisis within ANAP therefore came to a head in the same month as the Kurdish and Shia uprisings took place in Iraq. The internal battles continued throughout the Kurdish crisis. In June 1991 ANAP's national congress coincided with the debate over the coalition forces withdrawal from Iraq and the decisions over the 'residual force'.

These political events were unfolding inside Turkey's government during the Kurdish crisis in the months following the end of the Gulf War. The decision-making inside the highly centralised Turkish state was greatly influenced by the turbulence caused by the many-sided political crisis.

SUMMARY

For Turkey the Kurdish revolt in Iraq precipitated a crisis inside Turkey, as well as in Iraq. The events, following on so closely from the Gulf War, forced the government to take far-reaching decisions on sensitive issues, at speed.

At first the revolt threatened the fragmentation of Iraq which might come from the downfall of the Baath regime. Also at stake was Iraq's cooperation with Turkey, south of the border, against the PKK. When the revolt failed another set of undesirable consequences loomed: a new exodus of Iraqi Kurds fleeing into Turkey, destabilising the already troubled south-east and costing Turkey millions of dollars in relief aid. There was furthermore the resentment of Turkey's southern and eastern neighbours: Turkey was assisting the West in support of the unpopular Kurds against an Arab state.

The government was, moreover, trying to introduce a controversial new 'dual strategy' designed to deal with

⁸⁶ On becoming prime minister Yilmaz conducted a purge of Islamists inside ANAP and in the upper echelons of the civil service. Ayata p 46. ANAP's Liberal wing flourished: Safa Giray was one of many former ministers restored to office. Giray became foreign minister. Shortly afterwards Yilmaz persuaded his parliamentary colleagues to support a vote in parliament to advance the date of the next parliamentary elections by 18 months, to 20 October 1991. In the event this proved to be an error. ANAP was defeated in that election.

the political and law-enforcement problems presented by Turkey's own Kurdish minority. There was, besides, a political crisis within ANAP. Özal faced a revolt in the party he had founded and led for nine years. His main opponent, Mesut Yilmaz, had opposed his pro-Western policy in the Gulf Crisis and accused him, once again, of yielding to Western interests. Chapter 8 will explain how Turkey and the states which participated in the intervention came to do so, despite these reservations.

CONCLUSIONS

The conclusions of the chapter are:

- Turkey's minorities and their place in society have been a source of tension since the foundation of the state.
- The minorities issue has brought foreign interventions into Turkish affairs on many past occasions. Turks and Kurds have come to suspect interventions by Western states, even when the stated objective is humanitarianism.
- The PKK campaign polarised opinion inside Turkey. The resilience of insurgents undermined the authority of the government at home and brought criticism from abroad. The experience of receiving Iraqi Kurd refugees during the 1988 *Anfal* exodus made Turkey reluctant to offer assistance in a new crisis. Kurdish issues, and the prospect of additional Kurdish immigration, had become highly sensitive in Turkey.
- The Kurdish crisis occurred at a time when Turkey was in the middle of a reassessment of its long-term strategic interests. The pro-Western stance of the past - modified since the Cyprus crisis of 1974 - was under review. The Turkish people already felt frustrated over delayed EU membership, as well lack of Western support over Cyprus and other territorial disputes with Greece. It appeared that there would be no rewards for Turkey despite its contribution in the Gulf crisis. Turkey was also assessing its relations with its southern and eastern neighbours.

- The economic, security and political crisis facing the Turkish president and people in 1991, just as the Kurdish crisis took place, influenced decision-making. The timing of the crisis - and the need for quick decisions - led to equivocal, even contradictory, responses from Turkey.

CHAPTER 5

THE KURDS OF IRAQ, SYRIA AND IRAN

This chapter presents the key events in the political history of the Kurds of Iraq, Syria and Iran in the 20th century to date. It also considers the interventions of external powers in those states where those interventions had an impact on the Kurdish people. This material is presented as background to the account and analysis of the Kurdish crisis of 1991.

The themes of this chapter will be as follows:

- the historical origins of modern Iraq, Syria and Iran and the political history of the Kurdish populations of those states.
- the distrust felt by Arabs, Iranian-Persians (as well as the Kurds) towards leading states, especially those states' interventions in the Middle East this century.
- Iraq, Iran and Syria's attempts to assimilate their own Kurdish citizens to date and the periodic confrontations between the governments and their respective Kurdish population.
- the hostility between the Baath regimes of Iraq and Syria.
- the part played by the Iraqi and Iranian Kurdish parties in the Iran-Iraq War and their disunity in the years 1988-91.
- the conduct of the Western states during the Iraq-Iraq War and their failure to condemn the Iraqis' *Anfal* campaign (including the use of chemical weapons).
- Turkey and Iran's experience of receiving Iraqi Kurd refugees during the *Anfal* in 1988.

THE VERSAILLES SETTLEMENT AND THE NORTHERN TIER

Persia (renamed Iran in 1934) was not part of the Ottoman territories and was not a combatant in World War 1. From 1924 Reza Shah, a former Czarist cavalry officer, began to re-establish a unified state out of the historic Persian territories after years of decentralised rule.

The Versailles Settlement arranged that Iraq and Syria would be governed by mandates under the formal supervision of the League of Nations from 1920. The mandates served the immediate interest of the mandate powers but, as transitional arrangements designed to bring the territories to independence, they were broadly acceptable to local nationalists. During the mandates the British and French respected and protected minority cultures in the mandate territories. They did, however, take military action to suppress uprisings against the central government when they occurred. When the territories achieved independence the British (in Iraq) and French (in Syria and Lebanon) advisors remained to exert an influence which was mainly beneficial to Kurdish interests in those new states.

In the 1930s the Kurds of the northern tier were united in admiration for the exploits of the charismatic 'mullah' Mustapha Barzani, a traditional leader who resisted the authority of the British and the Iraqi monarchy in the Kurdish areas of northern Iraq. He led a succession of revolts against the central government and encouraged Kurds elsewhere to achieve autonomy. The governments of Turkey, Syria and Iraq inserted an agreement to cooperate against the separate manifestations of Kurdish 'nationalism' in their mutual defence agreement, the Saadebad Pact, in 1938.

A territorial dispute between Iraq and Iran over the designation of sovereignty over the Shatt-al-Arab waterway developed in the 1930s. Britain influence ensured that the parties reached an agreement, on terms favourable to Iraq, in 1939. Iran renewed its claim later in the century.

The inter-war years therefore saw several forces at work in this region. First was the re-designation of the former Ottoman territories resulting in a new and confident Republic of Turkey and the several mandate territories controlled by Britain and France. Second was the revival of centralised rule in Persia (Iran). Third was the beginnings of sustained, if uncoordinated and unsuccessful efforts by various Kurdish communities to establish autonomy in these new or revived states.

During World War 1 Persia was a battlefield for the Turks and the Russians. The fighting lasted until 1917 when the Russian forces ceased to be operationally effective. During the war many of the ethnic minorities in Persia took advantage of the breakdown of central government authority - which had never been very strong even in peacetime - to assert a degree of autonomy in their own areas. In 1919, a Kurdish leader called Simitko and his Shatak tribal federation took control of the area west of Lake Urmiah, in defiance of the central government. This revolt also coincided with the start of the Turkish War of Independence in Anatolia and Sheik Mahmud's revolt against the British in northern Iraq. In 1922 Simitko was defeated by the forces of Reza Shah and fled into Turkey. Reza Shah pardoned Simitko in 1924 and allowed him to re-enter Persia. But in 1926 Simitko began another revolt and was forced into exile for a second time. In 1930 Reza Shah contrived his murder. In 1931 a Kurdish leader called Jafar Sultan led another Kurdish revolt in Persia. Reza Shah quickly defeated this uprising and drove its leaders into exile.

Whereas the Kurds of Persia were traditionally nomadic herdsmen organised in tribes controlled by traditional leaders, by 1920 this way of life was coming to an end. The tribesmen were inclined to settle rather than pursue the nomadic life, and central government was exerting more control than hitherto. As elsewhere in the Kurdish world the authority of the chiefs was by this stage in decline. This process was enhanced by Reza Shah's policy of land registration.

REZA SHAH

Reza Shah was a former Czarist Army officer who established himself as the ruler of Persia in 1926. He received support from the British who saw him as a useful counter to Russian influence in the region. He ruled an increasingly united Persia (Iran). An important instrument in this process was a land registration policy. Another was his policy of imposing the teaching of Persian as the official language in his domain. The chiefs became landlords and were absorbed into the ruling class of the emerging state. The former

tribesmen became tenant farmers, peasants or urban workers. Although there were frequent revolts against Reza Shah's rule he acted decisively using his forces to defeat the rebels, execute or exile the leaders and confiscate their lands. He rewarded those leaders who supported him. Reza Shah's regime developed a representative element some way short of a true democracy.

In August 1941 British forces entered Iran from the south and the Russian from the north. They occupied 60% of the territory leaving a central zone under the control of the Shah's government. The British suspected Reza Shah of Axis sympathies and forced him to abdicate in favour of his son, Mohammed.

The British expected to retain their influence (and their valuable oil concessions) in Iran under the new ruler. During the double occupation the central government's grip on the unoccupied part of the country was weak. Accordingly several ethnic groups took their chance at establishing an autonomous region free of Tehran's control. The opportunity came when the British and Soviet occupation forces prepared to withdraw from Iran, as agreed at the wartime Tehran Conference in 1942.

MAHABAD

In 1942 the Kurds of Iran founded a movement called Rebirth (*Komala-i-Zhian-i-Kurd*, normally '*Komala*') to promote the cause of Kurdish autonomy during and after the double occupation of Iran. The Soviets supported this movement and encouraged the first members to recruit Qazi Mahommed, a traditional leader, as the leader of the *Komala*.¹ *Komala* developed into the Kurdish Democratic Party of Iran (KDPI) in 1945.² The *Komala*'s 8 point programme called for autonomy, education in the Kurdish languages, in the press and in commerce and solidarity with the struggle of other

¹ The Soviets preferred a traditional leader because they distrusted the democratic roots of the movement. They preferred an authoritarian leader who would insist on discipline and obedience. Archie Roosevelt For Lust of Knowing: Memoirs of an Intelligence Officer (Boston) 1988 p 139. The Soviet influence offended many of the traditional Kurdish leaders, however. They could not accept the increasing influence of the atheist communists. The Kurds have a historic hatred and fear of Russians: in the 19th century and in the World War 1 the Russians had fought over Kurdish lands and had treated the people with brutality. Even today Kurdish mothers quell their disobedient children with the threat 'The Russians will come and get you.' Roosevelt p 146.

² The Iraqi KDP was formed in 1946, following the example of the KDPI.

minorities in Iran. The KDPI had close links with an equivalent movement growing in the Azeri peoples in the neighbouring province of Iranian Azerbaijan.

The 'Republic of Kurdistan' was established in the area of Mahabad, a town in the Iranian district of Kurdistan in 1946.³ Qazi Mahommed became the president of the 'republic'. The new government controlled a population of one million. The 'republic' made approaches to foreign governments but refused contact with the British who were supporters of the Shah.

The founders of the republic were soon joined by Mullah Barzani and 3000 followers. By the end of 1946, however, the Shah had recovered his authority and the Soviets had withdrawn their support for the Kurdish state. Soon afterwards the rebel republic was overrun by the Shah's forces and dissolved. Barzani and 500 of his men withdrew into the USSR where they remained in exile until the Qassim revolution in Iraq allowed them to return in 1958. Qazi Mahommed was later tried and executed by the Shah. For the Kurds this was the 'second great betrayal' by the international community. Whereas the Kurds had proclaimed their republic at Soviet instigation, external support was not available to prevent the Shah from crushing it less than one year later.

Ghassemlou, who later became the leader of the KDPI, attributes the failure of Mahabad to inadequate leadership. He also blames the pressures of time: it proved impossible to develop broad-based popular support, and foreign assistance, before the Shah recovered his strength. Roosevelt acknowledges the failure of leadership but also identifies the perennial conflict between the tribal leaders and the intellectuals. He believes that Mahabad might have survived if it had achieved the wholehearted support of either the Soviets or the tribal leaders. In fact it attempted to achieve both and achieved neither: they were irreconcilable. Fereshtesh Koohi-Kamali notes the backwardness of Kurdish society, the suddenness of the

³ In Iran 'Kurdistan' is a district within the Iranian province of Azerbaijan. The Mahabad 'republic' was therefore in the western part of that province. The Azeri 'republic' was in the eastern part.
For the distribution of Kurds in Iran see p 67 above.

SYRIA

During the inter-war years the British and the French encouraged minority cultures in their mandate territories.⁴ They did, however, take military action to deal with uprisings and revolts against the central political authority. When those territories achieved independence British (in Iraq) and French (in Lebanon and Syria) advisors remained to exert an influence which was largely beneficial to Kurdish language and culture. The Syrian Kurdish Democratic Party was founded in 1957 and has remained an underground organisation.

The 1961 Syrian constitution emphasised Syria's Arab identity, recognising no minorities. In 1962 following a census in Jazira which identified 120,000 ethnic Kurds the government withdrew their citizenship and invited them to emigrate.⁵ The Syrians may have feared that the Iraqi Kurds' recently renewed campaign against the Iraqi regime would cause unrest amongst the Kurds living on the Syrian side of the border. The Syrian government was also concerned about security in the newly-discovered oilfields of Jazira: Quarachok and Remilian. There is another Kurdish enclave, Arab-Pinar, further to the west, where 60,000 Kurds⁶ live. In 1963 Syria sent forces to assist the Iraqi government in operations against the Iraqi Kurds.

Since 1968, however, the Syrian and Iraqi Baath parties have been locked in rivalry: in 1975 Syria assisted the Iraqi Kurds in their revolt, and in 1980-88 it supported Iran in the Iran-Iraq War.⁷ Syria has provided a refuge for Iraqi Kurd organisations (and training facilities for the Turkish Kurd PKK⁸). Iraq condemned

⁴ William Jackson Britain's Triumph and Decline in the Middle East: Military Campaigns 1919 to the Present Day (London: Brassey's, 1996) pp 7-9.

⁵ The government statement described the Kurds as 'foreigners who have infiltrated illegally'. Vanly in Kreyenbroek p,151.

⁶ Vanly in Kreyenbroek p 148.

⁷ Syria and Iran are themselves rivals, however. Syria would like a Sunni Arab regime to replace the Baath in Iraq. Iran would like a Shia-controlled Iraq. Syria and Iran are also rivals for influence over Lebanon. A Sherzad p 140.

Syria's intervention in the 13-year Lebanese civil war and its occupation of the Lebanon.

The Kurdish people of Lebanon are immigrants from Turkey or Syria, or descendants of recent immigrants. In 1983 the number of Kurds in Lebanon was estimated at 90,000. Most live in west Beirut.

In Syria and Lebanon the Kurds are an ethnic minority but are less active in claiming minority rights than their brethren in Iraq or Turkey.

IRAQ 1945 - 1979

Iraq under the monarchy, with support from the British, followed a nation-building programme into the 1950s. With Barzani and his followers in exile until the revolution in 1958 the government was content that the Kurds maintained their cultural identity but suppressed any signs of political agitation. The Iraqi government and the British recognised the danger of Kurdish unrest, however. Britain's regional allies came together in a succession of defence treaties, the Baghdad Pact 1955 and CENTO 1956. These treaties included undertakings to discourage Kurdish 'national' aspirations.

Arab nationalism gained a strong following in all Arab states, including those of the 'northern tier', especially after the Suez crisis in 1956. As a result of their actions in the crisis the British forfeited much of their influence in the Middle East. This impact of Nasser and his ideology ensured that minorities in Arab states faced even greater pressures to integrate and conform. In 1958 a military junta overthrew the pro-British monarchy. The new Iraqi leader, Brigadier Qassim, was an admirer of Nasser and was determined to resist British and French influence in the region. Qassim invited Barzani, an enemy of the monarchist regime, to return. Despite the Arab nationalist atmosphere Iraq's Kurds expected their conditions to

⁸ Syria's relations with Turkey, see Note 13, p 90 above. Syria's principal contact with the PKK is President Asad's brother, Jamil al-Asad. Randal 'After Such Knowledge' p 237.

improve. Within two years, however, Barzani had fallen out with the regime and communal fighting recommenced.

In 1961 the Qassim regime's threats against the independence of Kuwait⁹ brought Iraq into military confrontation with Britain, the supporter of the former regime in Iraq. Iraq's failure to make good its claim to Kuwait in 1961 - prevented by the deployment of British ground and air forces to Kuwait - was to be recalled when, in August 1991, Prime Minister Thatcher urged the US Administration to form a coalition to remove Iraq from Kuwait. Subsequent Iraqi regimes would remember the UK as a state which had resisted Iraq's expansion and also one which had been sympathetic to the fate of Iraq's Kurds.

Iraq's border disputes with Iran - principally the Shatt al-Arab - caused occasional military clashes during the 1960s. Iran assisted Barzani's Kurdish Democratic Party (KDP) with funds and matériel in its sporadic military campaigns against successive Iraqi regimes. The KDP also received financial and material support from the US and from Israel.¹⁰

Since the '17 July' revolution against the regime of Abd al-Rahman Aref in 1968 the Baath party has held power in Iraq. The Baath party's pan-Arabism and hostility to Israel and Western influence in the Middle East have been evident in the policy of the state since that time. In 1968 the Baath came to power in Iraq. It faced an on-going Kurdish revolt and soon developed a rivalry with the Baath in Syria. The Baath regime in Iraq proclaimed a revolutionary Arab nationalist ideology and opposed Western interests in the Gulf region. (In 1970 it concluded a treaty with the USSR.) These developments alarmed the pro-Western, monarchist regime in neighbouring Iran, then the pre-eminent (and expansionist) regional power in the northern Gulf. The

⁹ Iraq's failure to make good its claim to Kuwait in 1961 - prevented by the deployment of British ground and air forces to Kuwait - was to be recalled when, in August 1991, Prime Minister Thatcher urged the US Administration to form a coalition to remove Iraq from Kuwait.

¹⁰ Israel has identified successive regimes in Iraq as hostile. In response it has assisted Iraq's enemies (like Syria, Iran and the Iraqi Kurds) at times when their opposition was likely to distract the Iraqi regime from action against Israel. Gunter 'Kurds in Iraq' p 31. For details of CIA subsidies to the KDP in the 1960s see Jack Anderson 'Israel infiltrates Arab Regimes' Washington Post 17 September 1972 p B5.

two states had two continuing causes for disagreement: the Shatt-al-Arab and the financial support Iran was giving to the KDP's sporadic military campaign against the government in Baghdad.

The KDP was divided, however. Since 1964 the 'politburo' faction led by Jalal Talabani and his father-in-law Ahmad has occasionally fought with members of the mainstream KDP. At times this faction has received covert financial support from the Iraqi regime.

In 1970, therefore, the new Iraqi regime offered to negotiate with the KDP. It needed a period of internal stability in which to consolidate its position and build its strength. In the 1970 'Manifesto Agreement' the regime appeared to concede a large measure of autonomy to Iraq's Kurds.¹¹ The KDP, for its part, also needed a period of peace. The regime promised the Kurds an attractive measure of autonomy, educational freedom and participation in government. It offered a plebiscite to decide the most difficult issue: control of Kirkuk. Iran immediately cut off its support for the KDP.

In the next three years the Baath and the Kurds wrangled over the implementation of the agreement. During this period of peace the Baath Party establishing stronger links with the USSR. The Iraq-USSR Friendship Treaty (1972) followed and thereafter the Baath modernised its armed forces using Soviet-made arms.

The Nixon Administration was alarmed at the Iraq-Soviet treaty. Acting on the proposal of Iran, its principal ally in the northern Gulf, the US encouraged the Kurds to rebel again. From the end of the 1973 Arab-Israeli War the priority of US foreign policy in the region was to construct an accord which would assure the security of Israel and at the same time produce a measure of justice for the Palestinians and the Arab states. For the US pressure applied to Iraq would reduce that state's opposition to Arab rapprochement

¹¹ But by 1973 the regime had strengthened itself, not least by a new treaty and arms deal with the USSR.

with Israel. It would also counter growing Soviet influence in the northern tier. In the period 1973-76 the complexity and importance of this task far outweighed any concern the Administration might have felt for a people like the Kurds. The Iraqi Kurds were angry at the regime's failure to honour the Agreement. But they only prepared to reopen hostilities - and abandon the once promising Manifesto Agreement - because of the assurances of support they had received from the US Administration and, to a lesser extent, Iran. Fighting resumed in 1973.

In 1974 and 1975 the Kurds' campaign was successful. But their success led them to advance south into open country away from the mountains where their traditional organisation and irregular tactics were most effective. Increasingly dependent on military aid from the Iranians and financial aid from the US the Kurds were poised to inflict a lasting defeat on government forces. In the following year, however, the Kurds' campaign ended in disaster. The Iranians suddenly made a separate peace with the Iraqis - known as the Algiers Agreement - and immediately withdrew their support for the Kurds. The Iraqis counter-attacked and Kurdish resistance collapsed. The Iraqis then overran the Kurdish areas of northern Iraq, installing a repressive occupation regime. (The Kurds call this the third 'great betrayal'.) They blamed not only the Iranians but also the Americans. The US Administration had encouraged them to rebel, stood as guarantor of their alliance with Iran and had then abandoned them.¹²

In Iraq the devastating defeat of the Kurdish revolt led to the exile and death of Mustapha Barzani and the breaking away of the 'politburo' faction of the KDP to form the Patriotic Union of Kurdistan (PUK). The resistance shown by the Iraqi Kurds towards a repressive Iraqi regime once again reminded their brethren in Turkey and in Iran of the need for struggle

¹² Details of the Administration's policy over Iraq, Iran and the Kurds was revealed when the US Congress' secret 'Pike Report' was published in the New York newspaper, *The Village Voice*, in 1976. It showed that Nixon (in office till August 1974) and Kissinger who served as Secretary of State under Presidents Nixon and Ford (till January 1977) persuaded the Iraqi Kurds to rebel and gave them financial support. It also revealed the termination of that support immediately the Iranians came to their agreement with Iraq at Algiers. Jackson pp 155-157.

for cultural recognition, if not more. Barzani's reputation for bravery and determination strengthened even those who were conducting a political, rather than a military, campaign in their own countries. The effect was to heighten awareness of the Kurdish struggle throughout the northern tier.

IRAN 1970-1979

The 1970s was a decade of expansion and growing confidence for the Shah's regime in Iran. Increased oil revenues following the 1973-4 oil crisis, success in suppressing domestic opposition, a strong alliance with the US and the development of powerful armed forces allowed the Iranians to exert influence throughout the Gulf region. Iranian self-confidence was shown in its 1972 annexation of the uninhabited but strategic Abu Musa and Tombs islands in the middle of the Gulf.

Iran saw Baathist Iraq as a potential rival as the pre-eminent power in the northern Gulf. It gave covert financial support to the KDP in Iraq whenever it needed to exert pressure on its neighbour. Iran ceased its support when the KDP made peace with the Baghdad regime in 1970-4 and after the Algiers Agreement.

The Shah's regime assisted the Kurds in Iraq but it did not encourage its own Kurds in their desire for autonomy. The formidable secret police organisation in Iran maintained its surveillance on potential Kurdish rebels, as it did on other opposition groups at home and abroad. The KDPI was for many years content to assist the KDP. It abstained from action against their own government in order to safeguard Iranian support for the KDP.

After Algiers, however the KDPI changed its policy: it would no longer see the struggle for Kurdish rights in Iraq as the first priority. It would concentrate on the struggle inside Iran itself. By resisting the Shah's regime the KDPI offended the KDP's main supporter. The KDP thereafter regarded the KDPI as its enemy. The worst sign of disunity between the Iraqi and Iranian Kurds came in 1980 when Iranian Kurds desecrated

Mustapha Barzani's grave at Usnamiah. The next decade saw the Iraqi Kurds and the Iranian Kurds in open conflict.

THE IRAN - IRAQ WAR AND THE KURDS

After the Islamic revolution in Iran in 1979, and the taking of the US Tehran embassy hostages, Iran changed from being the US' most trusted ally in the region to being its most determined enemy. From the start of the Iran-Iraq War of 1980-88 Western states took a public position of neutrality. But by the end of the conflict the US was openly assisting Iraq against Iran.

Despite the US' listing of Iraq as a 'state sponsor of terrorism' (1979) and the Carter presidential directive banning US arms sales to Iraq (1980), the Reagan Administration soon modified this policy. In the opinion of Caspar Weinberger, George Bush and James Baker Iraq's efforts against Iran - the hostage taker - were worthy of covert support. After the Israeli attack on the Osirak nuclear power station (7 June 1981) the US sponsored a UN Security Council resolution condemning Israel. Alexander Haig, the Secretary of State, objected to this policy as he identified Iraq as a potential adversary to the US in the region. Later that year Saddam Hussein's son-in-law made frequent visits to the US to buy arms. On 26 February 1982 Iraq was quietly removed from the list of 'state sponsors of terrorism'. In July 1982 the US first supplied the Iraqis with satellite photographs showing the dispositions and status of Iranian forces. On 26 November 1984 the US resumed full diplomatic relations with Iraq. Thereafter, for the duration of the war, the UK, France and Italy) supplied arms to Iraq. (From reports of the Iran-Contra affair it is now clear that the US supplied arms and materiel to Iran.) The United States Navy's escorting of tankers carrying Iraqi oil led to several celebrated incidents. Following the Iranian attack on the USS Stark, the US Navy conducted air attacks on Iranian gunboats and the USS Vincennes' shot down an Iranian airliner. Despite its confrontation with its Kurdish population, the leadership saw that external assistance could still be

obtained. Iraq had started the war. Even so, as the war went on, the Iraqis found that they could obtain money from the Gulf states and buy arms from the USSR and the West. When Iran attacked neutral oil-tankers carrying Iraqi oil in the Gulf the USA was prepared to provide armed protection for those ships and was prepared to destroy Iranian warships and aircraft.

During the Iran-Iraq War the Kurds on both sides of the border fought against their own governments. The Kurdish operations against the Iranian and Iraqi government forces during this war followed the long-established practice of asserting independence whenever the state authorities were distracted by wars or disabled by political divisions.

Many Kurds in Iraq were conscripted into the Iraqi army and fought for the regime, at times against the forces of the KDP and the PUK. The conduct of these 'National Defence Force' units - dismissed by the Kurdish *peshmerga* as *jash* (donkeys) - indicated at least some loyalty to the regime. These pro-government Kurdish forces did not serve entirely under compulsion.¹³ The main Iranian Kurd organisation, the KDPI, collaborated with Iraq against the revolutionary regime in Tehran.

Inside Iraq, however, the PUK, first fought in alliance with the KDP against the regime. In 1983, however, the PUK leadership judged that it was more likely to obtain concessions from the regime by making peace than by continuing its rebellion. Massoud Barzani opposed this policy and the KDP continued to make war. (This conflict between the major Kurdish parties recalled inter-factional fighting amongst the Iraqi Kurds in 1968-70.) In revenge the Baath removed 8000 male members of the Barzani clan from the Quashtapa internment camp and executed them. The PUK showed its willingness to support the regime by fighting against the KDP and other rebellious Kurdish groups.¹⁴ The PUK negotiations lasted until January 1985 when they were broken off by the regime. Thereafter the PUK accepted

¹³ See p 74, above.

¹⁴ McDowell 'A Modern History' p 327.

the KDP offer of cooperation in a Kurdistan National Front which formed in 1987. (It subsequently incorporated non-Kurdish opposition groups.) Bad blood remained however between the two Kurdish Parties.¹⁵ A KDP spokesman said, in early 1986:

We are not enemies anymore, but we cannot be considered loyal friends. So far as we know [Talabani] fights against the Iraqi government.¹⁶

Whereas the Kurds' military activities in the Iran-Iraq War were mainly conducted in northern Iraq (and the adjacent areas of northern Iran) these areas were, for most of the war, subsidiary theatres of operations for the main Iraqi and Iranian forces. The main battles on land were fought in the Basra area and on the nearby Fao peninsula. The exception was an Iranian land-air offensive against the Kirkuk oilfields in 1976. (The KDP assisted the Iranians in this operation.) The Iraqi Kurds in their uneasy alliance did however control most of northern Iraq. The Front had 60,000 *peshmerga* in the field and controlled an estimated 3,800 square miles of territory.¹⁷ Kurdish resistance in the north therefore denied government control of substantial areas of the north of the country and also encouraged members of the various minorities to desert from government forces.

Barzani wanted to consolidate resistance to the regime by political as well as military action. Accordingly, between July 1987 and May 1988, he negotiated a wider alliance including the smaller Kurdistan People's Democracy Party KDPD (Sami Abderrahman) the Kurdistan Socialist Party (SKPI), socialist PASOK, the Assyrian Democratic Movement, the Kurdistan Toilers' Party and the Kurdish branch of the Iraqi Communist Party. The aims of the Kurdistan Front were the overthrow of Saddam, the institution of a democratic government for Iraq and the establishment of an autonomous zone in northern Iraq.

The Kurdish parties with an Islamic platform refused to join the Front. These were the Kurdish Islamic Movement

¹⁵ McDowell pp 348-352.

¹⁶ Gunter 'The Kurds in Iraq' p 39.

¹⁷ Gunter p 41.

(PPK), the Hizbollahs of Kurdistan (led by Shaik Muhammed Ali Khalid Barzani, Massoud's cousin) and the Iraqi National Turcoman Party (INTP). Turkey had secretly inspired the foundation of this party which represented the 2.5m Azeri-speaking Iraqi Turcomans. Its leader was Mustapha Arslan. Likewise the Tehran-based Supreme Assembly for the Islamic republic of Iraq (Mohammed Baqr al-Hakim) - as well as the underground guerrilla group DAWA - refused to join the Front: they would not accept the Front's secular programme.

For the Iraqi regime, therefore, the Kurds' efforts in the Iran-Iraq war were a nuisance and a provocation rather than a significant factor in the overall course of events. But that rebellion still provoked a harsh Iraqi response: in 1987 Saddam Hussein appointed his cousin Ali al-Majid as the governor of northern Iraq with orders to destroy Kurdish opposition to the Baath regime and to terminate the assistance the rebels were giving to the Iranian enemy. In April that year the first chemical weapons' attacks against Kurdish targets took place.¹⁸ This campaign of repression became known as the 'Anfal'.¹⁹ It continued after the war until the northern part of Iraq was 'pacified'.

In March 1987 the Iraqis began to achieve success on the battlefield.²⁰ The support Iraq received from the US, and to a lesser extent from other Western states, encouraged its final campaign and demoralised Iran. Some observers assess that the upturn in Iraq's fortune in the war came at the time of the last 'war of the cities' in which Iraqi missile attacks on Iranian cities created havoc amongst the Iranian population. After one attack against Tehran 500,000 people fled into the countryside in terror. In due course the 'convoy' protection of neutral shipping from Iranian air and gunboat attacks and the well-publicised clashes between US warships and Iranian gunboats forced Iran to

¹⁸ Bulloch and Morris state that there were 67 certified CW attacks against Kurdish targets in the period April 1987-November 1989. See also Valerie Adams Chemical Warfare, Chemical Disarmament (Bloomington: Indiana University Press, 1990) pp 85-90, Edward M Spiers Chemical Weaponry: A Continuing Challenge (New York: St Martin's Press, 1989) pp 121-125 and A Sherzad p 136. Iraq accused Iran of making attacks using CW. No conclusive evidence came to light to support these claims. W Andrew Terrill 'Chemical Weapons in the Gulf War' Strategic Review Spring 1986 and The Independent 2 August 1988.

¹⁹ Sheri Laizer Martyrs, Traitors and Patriots: Kurdistan after the Gulf War (London: Zed Books, 1996) p 2.

²⁰ Herzog p 263.

recognise that it could not win the war. Finally the Vincennes incident triggered Ayatollah Khomeini's long-delayed agreement that the war should end.

THE ANFAL IN IRAQ

Anfal ('spoils of war') is the name of a chapter in the Koran. It lays down, *inter alia*, the treatment which should be meted out to defeated enemies. The campaign terrorised the Kurdish population in Iraq, caused mass depopulation of the border areas, forced re-settlement of Kurds in the south of Iraq and the harassment of Kurdish fighters who had previously opposed the regime. The Iraqis use of attack helicopters to deliver chemical warfare agents to kill civilians was a feature of early attacks. One writer has put the total of Kurdish deaths attributable to the *Anfal* at 182,000. The director of the *Anfal* was Hassan al-Majid, Saddam's uncle, known to Iraqis by the nickname Ali Kimiya - Chemical Ali. Majid acted under Baath Revolutionary Command Council's Decree 160 of 29 March 1987. (It was the memory of the *Anfal* campaign - with its Iraqi attacks using chemical weapons - which probably caused the desperate speed of the Iraqi Kurd flight after the failure of the uprising in March 1991.)

In March 1988 the Iraqis attacked the Kurdish defenders of the town of Halabja with chemical weapons. Halabja is a town with a normal population of 70,000, and lies 15 miles from the border with Iran. It was in the battle zone of the Iran-Iraq war in the Spring of 1988. At Halabja at about 2pm local time on 16 March 1988 Iraqi aircraft attacked the town. The targets of the attack were PUK *peshmerga*, fighting in alliance with Iranian forces, who had captured Halabja 48 hours before. The Iraqi aircraft used CW and then conventional air attack weapons, in many cases fired from armed helicopters. Mustard gas and sarin (a nerve gas) and possibly cyanide, were used. There were many non-combatant casualties, mainly Kurds. 5000 people were killed in the attack and many others wounded.²¹

²¹ Peter W Galbraith and Christopher van Hollen's report for the UN Senate Committee on Foreign Relations 'Chemical Weapons' Use in Kurdistan: Iraq's Final Offensive' 100th Cong, 2nd Session September 1988. Also Kanan Makiya (Samir al-Khalil) Cruelty and Silence (London: Penguin, 1992) Chapter 5 pp 151-200.

The Nordic states, Australia, Canada, Israel and Iran - as well as several Arab states - condemned Iraq's use of chemical weapons (CW) at Halabja. But the response from the Western states was muted. The UN SC R 620 was mild: it 'regretted' the attack but did not single Iraq out for criticism, nor did it initiate any form of international sanctions. Whereas the US House of Representatives passed a condemnatory resolution the Administration refused to impose economic sanctions, restricting itself to a mild protest. One congressman, Bill Frenzel, opposed the resolution on the grounds that it would hurt future US trade with Iraq. The US Senate enacted what was to become the 1988 'Prevention of Genocide Act'.²²

Turkey also refused to condemn Iraq's use of chemical weapons and denied international agencies access to survivors. Iraq owed Turkey \$2 bn in war loans. It has been suggested that Turkey's anxiety about repayment led it to remain silent.

After the end of the war in 1988 the Iraqis punished their own rebellious Kurds: the *Anfal* campaign laid waste the northern Kurdish areas, causing many direct casualties, destroyed 4000 villages, expelled families from historic lands in the border areas and forced their resettlement in distant parts of Iraq. This repression forced many thousands of Kurds to flee across the borders into the neighboring states of Turkey and Iran.

Iraq emerged from the Iran-Iraq War in a badly damaged state. But its regime was able to present the war to its own people as a victory. Despite the substantial cost of the war, in lives and in damage to the economy, the Baath regime saw that it could extract support even from unwilling external states. The Arabs felt obliged to provide financial support, even to a deeply unpopular regime. Another consequence was the strength and renewed confidence of the Iraqi regime after the

1988. Also Kanan Makiya (Samir al-Khalil) Cruelty and Silence (London: Penguin, 1992) Chapter 5 pp 151-200.

²² Amnesty International Iraqi Kurds: At Risk of Forcible Repatriation and Human Rights Violations in Iraq Amnesty International USA (New York June 1990) p 1. Bulloch and Morris pp 119 and 264. As US policy was then focused on persuading Iran to accept a cease-fire, as Iraq had long been willing to do, the Administration preferred (in public, at least) to condemn the use of CW by both sides in the war, without singling out Iraq for its conduct at Halabja. Amb Vernon Walters in US Dept of State 'Bulletin' July 1988 p 69.

war. Addressing its own people after the cease-fire the Baath was able to claim a large measure of victory; to the wider Gulf region Iraq was able to present itself as the champion of the Arab cause against the historic 'Persian' enemy.

Iraq had obtained support from Jordan, Egypt and the PLO. It had also obtained necessary financial support - as loans rather than gifts - from the Gulf Arab states. (It was to be Kuwait's refusal to cancel Iraq's war debt that precipitated the Iraqi invasion in August 1990.) So long as the enemy was Iran the Iraqis could also expect support even from the USA.

The arrival of the Iraqi Kurdish refugees in Turkey in 1988 as result of the *Anfal* postponed the announcement of Özal's plan to win the cooperation of Turkey's moderate Kurds. The public was alarmed at the inflow of Kurdish people, especially as many of the Kurdish men were armed. Turkey received no international assistance for the cost of looking after these refugees. This sharpened public criticism of Özal's decision to admit them. It was only in 1990 that he felt able to implement the next stage of his plan to offer the Turkish Kurds a form of cultural autonomy. By that time the whole region was embroiled in the wider Gulf crisis. The Western states' failed to condemn Iraq's original aggression towards Iran and sold arms supplies to Iraq during the war. These signals may have led the Iraqi regime to believe that the same states would tolerate future Iraqi moves to establish a dominant position in the northern Gulf. In 1988 the same states' silence over Iraq's repression of the Kurds appeared to give consent for the *Anfal* campaign and may have led the Iraqis to believe that they would tolerate another round of Iraqi repression against the Kurds in March-April 1991.

In the months following the *Anfal* the KDP worked to assemble a Front to bring together all the Iraqi opposition parties, including parties representing the Shia Arabs in Iraq. Agreement was reached in Damascus in 1990. But in 1991 this 17-party organisation failed to agree on a programme of action to be taken following

the anticipated Iraqi defeat in the war. The Shia parties insisted on Iraq becoming an Islamic state.

The Kurdish revolt during the Iran-Iraq war reminded the Iraqi regime that traditionally hostile sections of the Kurdish population would break ranks with their ethnic brethren if they saw a tribal or party advantage in doing so. The cooperation between the PUK and the regime in 1984-5 demonstrated the lack of cohesion between the various Kurdish groups. Furthermore the war exposed the rivalries between the Kurdish leaders and their willingness to sacrifice the longer-term 'national' objectives for short-term tribal or party ones. Perhaps the underlying cause of this disunity was the continued strength of tribal and personal loyalties over national identity and aspirations: maybe the strongest feeling uniting Kurds in Iraq (and possibly elsewhere) is the desire for an area of autonomy. In such an area leaders would have decided important local issues and had access to external sources of funds so they would not have to risk their personal popularity by raising taxes from their followers. Revenues obtained for external sources - such as oil revenues - would be dispensed as feudal largesse to their supporters. In short autonomy would permit tribal life - including tribal warfare - to continue without interference from the central government.

Arguably the Kurds of Iraq have never been able to agree, or organise, a national platform which went further than this basic aspiration. To go beyond this limited objective would require the Kurds and their leaders to subordinate their own activities to the pursuit of 'national' interests, exchanging personal authority for constitutional processes. The war also demonstrated the indifference of the outside world to the activities (and the fate) of rebellious minorities in Iraq and Iran.

THE GULF CRISIS

Iraq had received support from many Western states during its war with Iran. In the Gulf Crisis, however, Western states opposed Iraq. In the early months of the crisis, before the air war campaign in January 1991,

the crisis had little impact on the Kurds. The Iraqi Kurds were still recovering from the *Anfal*. The separate KDP and the PUK approaches to the US Administration neither brought material support nor encouragement for any Kurdish military action in conjunction with coalition operations. Nor did they achieve an agreement with the non-Kurd opposition groups in Iraq. There was therefore no united post-war strategy to deal with the Baath regime after its defeat.

Although the Iraqi Kurdish groups represented a potential weapon to be used against Iraq the US and the other coalition states were unwilling to encourage their participation in the war. On 12 August 1990 Jalal Talabani visited Washington to offer the US the support of 30,000 Kurdish fighters against Iraqi government forces. State Department officials demurred. Senators Claiborne Pell and John Kelly - previously supporters of Kurdish rights - also withheld support for any such plan.²³

For the Western and the Arab coalition states the objective of the Gulf War was the liberation of Kuwait. But for the coalition to have accepted or encouraged Kurdish assistance in the war effort would have implied encouragement for Kurdish aspirations in Iraq and elsewhere. Such aspirations are unacceptable to all coalition members, Americans, Europeans, Turks and Arabs.²⁴ For example Sheik Saud al-Sabah, Kuwaiti ambassador to the US, singled out the Kurdish members of the Iraqi occupation forces in Kuwait for condemnation. He said the Iraqi Kurds were the most brutal of the occupation forces and had been responsible for looting as well as rape and torture of Kuwaiti civilians.

Eighty per cent of the Iraqi soldiers who were raping and pillaging Kuwait were Kurds ...I don't have [as] much sympathy as you have for the Kurds ...They are more brutal, more violent, than the rest

²³ Nader Entessar 'Kurdish Ethnonationalism' p 146.

²⁴ USA Today 3 July 1991.

of the Iraqis... There are Kurds who stole everything and pillaged everything.

It was argued that such a consequence would have destabilised the entire northern tier, from the Bosphorous to the Caspian Sea.

Whereas the KDP had succeeded in forming a 17-party opposition front against the Iraqi regime this front was unable to agree on a programme for the government of Iraq after the coalition victory. The Shia parties, in particular, refused to accept anything less than an 'Islamic' programme. Thus there was minimal cooperation between the various opposition groups during the Gulf War. Likewise there was no evident coordination in the uprisings which followed.

CONCLUSIONS

The conclusions of the chapter are:

- The Kurds of Iraq have been a constant source of instability inside the state since its foundation. The presence of a 20% minority in a population might lead to this result in any state. But the Kurds are warlike and are reluctant to accept the authority central government.
- In the 1970s Iraq's status, in the eyes of Western government's, was determined by its treaty with the USSR and its rivalry with monarchist Iran, a close regional ally of the USA. In the 1980s, in contrast, Iraq was in confrontation with the revolutionary regime in Iran. It therefore received Western support.
- During the Gulf Crisis Iraq was guilty of aggression towards Kuwait. It therefore became the target of substantial 'enforcement' action, authorised by the UN and carried out by a US-led coalition.
- In all these shifts of political association the Kurds in Iraq were an instrument by which external forces could pressurise the Iraqi regime. But those external forces did not provide consistent support for Kurdish aspirations; they were intent on their own short-term interests. Hence the sense of betrayal felt by the Kurds towards those states which had given them support in the past. Far from giving effective, lasting

support to their Kurdish allies the other states exposed and abandoned the Kurds to repression: the *Anfal* was the consequence of Iraqi Kurds' resistance during the Iran-Iraq War. Its brutality strengthened the hatred and fear felt by many Iraqi Kurds towards their host state.

- Despite the history of betrayal and repression the Kurds remain disunited. The conflict between the KDP and the PUK in Iraq, and between the Iraqi Kurdish parties and the KDPI, is evidence of the profound political fragmentation of the Kurdish world.

CHAPTER 6

THE US, THE USSR AND THE IRAQI KURDS 1988-1991

A full study of the Kurdish crisis of April-July 1991, and its effects beyond the region, needs to consider the history of the Kurds in the 20th century. It also needs to consider the contribution made by broader world and regional events: the end of the Cold War together with the fall of communist governments in central Europe and the Gulf Crisis. The Kurdish crisis was shaped by these wider events. This chapter will present a tentative explanation of the historical and external influences on the events in northern Iraq and neighbouring territories in April-July 1991. This chapter will complete the description of the context of the Kurdish Crisis.

The themes of this chapter will be as follows:

- the lack of coordination between the opposition parties in Iraq after the *Anfal*.
- the US Administration's post-Gulf War agenda in the Middle East.
- the Soviet government's post-Gulf War agenda in the Middle East.

The Kurdistan Front succeeded in uniting many of the anti-government Kurdish organisations in Iraq towards the end of the Iran-Iraq War. This was a promising development for those who supported the rights of minorities in Iraq.¹ The unity was incomplete and fragile, however. The Islamic Kurdish and Shia Arab parties refused to cooperate with the Front. Furthermore the Front's joint military command and coordination organisation collapsed during the *Anfal* and could not be re-established.

Two years later, as the Gulf Crisis developed after the Iraqi invasion of Kuwait, there was another opportunity for all the anti-Baath parties and groups

¹ The 2.5m Turcomans, also the Assyrians, and others.

in Iraq - including the Islamic parties - to come together in a new 'Front' organisation. In negotiations held in Damascus as many as 20 groups tried to find common ground. But, still demoralised by the *Anfal*, the various Kurdish, Turcoman and Arab groups found they could not agree on the nature of a successor regime to that of the Baath. Seventeen parties - excluding the 'Islamic' and Shia groups - made a limited agreement to cooperate. Although the meeting resulted in a 12-point platform and the formation of a five-man 'steering committee', it was not possible to arrive at a coordinated plan of action. Also involved in the discussions were representatives of some former Baathist Sunni Arabs who enjoyed Saudi support.²

The Kurdish groups sought autonomy, if necessary within the Iraqi state. They attempted to win support from the Communists, many of whom were Kurds. The Shia groups, also beset by internal rivalries, had always opposed Kurdish separatism and in any case sought a political resolution which would create an Arab Islamic republic like revolutionary Iran. They would have no dealings with the atheist communists. Whereas the Kurdish groups had some support in the West the Shia groups' association with the anti-Western regime in Iran discouraged Western governments from giving them any support.

The radio stations funded by the various Iraqi opposition parties (the 'Voice of Rebellious Iraq' and the 'Voice of the People of Kurdistan') broadcast anti-regime propaganda from January 1991. Another of these stations, the 'Voice of Free Iraq' was controlled by the CIA.

The opposition parties seem to have assumed that Saddam and his regime would fall from power after the expected victory of the DESERT STORM coalition. At that point observers expected a struggle between Iraqi

² Ofra Bengio 'The Kurdish and Shia Communities; From Resentment to Revolt' in Amatzia Baram and Barry Rubin (eds.) *Iraq's Road to War* (Basingstoke: Macmillan 1994) p 51-60.

groups: the Kurds would rely on their military prowess, the Shia on their numerical strength.³

Turkey and Syria, separately, encouraged the Iraqi opposition to unite. Syria's assistance to Iraqi Kurdish groups was part of its long-standing campaign to destabilise the Iraqi regime. Until 1989 Turkey and Iraq enjoyed good relations. The two neighbours had cooperated, especially in the suppression of Kurdish separatism. But in 1989 Turkey had complained that the Iraqis were failing to prevent cross-border movement by terrorists and smugglers. (It also objected to the Iraqis' harassing the 100,000-strong Iraqi Turkoman population.) Iraq replied by terminating the agreement which permitted Turkish forces' 'hot pursuit' operations across the border into Iraq. Iraq (and Syria) then revived their long-standing objections to Turkey's GAP project to divert the headwaters of the Euphrates. In April 1990 relations worsened still further when Turkish customs in Istanbul intercepted parts of an Iraqi 'supergun'.

Above all Turkey was determined to destroy links between the PUK and the PKK. This alliance had been formalised in the 'Protocol of Understanding' signed on 1 May 1989 in Damascus. One year later, however, relations between the Kurdish Front and the PKK had broken down. This development removed one of the obstacles to Özal's 'dual strategy'. Turkey's objective was to persuade all Iraqi Kurdish groups to suppress PKK activities in northern Iraq.

As the Gulf War came to an end the Iraqi Kurds saw yet another opportunity to exploit the weakness of the Baath regime. When the Shia began fighting against government forces in the south-west the Kurds in the north also rose in revolt. But the memory of the Anfal (and of Kurdish defeats in 1976) inspired fear as well as hatred: when the Iraqi counter-offensive began to succeed - and when it became clear that no external force would intervene on their side - the civilian

³ Ibid.

population and the defeated peshmerga fled north and east to the borders.

THE US ADMINISTRATION'S POST-GULF WAR POLICY IN THE MIDDLE EAST

In framing the foreign policy of the Bush Administration (1989-1993) George Bush and James Baker were determined to make 'historic' progress in long-standing US foreign policy objectives. Their approach built on good US-Israel relations achieved during the Reagan Administration. They desired the prestige that success would bring; they wanted to present an impressive foreign policy record to the American people at the next presidential election, in 1992.⁴

The first foreign policy priority was, however, the management of the new post-Cold War relationship with the USSR. Throughout its term of office the Bush Administration hoped that cooperation would strengthen Gorbachev and the 'reformers' in the USSR. One of the most important strands of that relationship was their cooperation in areas of regional conflict, especially in the Middle East.

The Gulf Crisis allowed the Administration to demonstrate its US political and military power. The coalition's victory presented the US with the opportunity to launch a new initiative: American-brokered peace accords between the Arabs and Israel and between Israel and the Palestinians.

In the autumn of 1990 and throughout the crisis Administration spokesmen prepared the ground for the initiative: officials spoke more and more confidently about 'progress' towards peace between the Israelis and their neighbours, when the crisis was over. The peace process initiative would secure a part of the 'new world order'.

⁴ Baker had been Bush's campaign manager in 1988 and would be again in 1991. Boris Pankin, the last Foreign Minister of the USSR, recorded the following observation about Baker, in October 1991:

'While he appeared obsessed with his country's role as undisputed world leader ... I saw that obsession as subservient to the basic aim of securing the re-election of George Bush and the Republican Party.'

Boris Pankin The Last Hundred Days of the Soviet Union (London: IB Tauris, 1996) p 98.

By the Spring of 1991 Bush and Baker had for some time been considering how to bring about a lasting peace in the Middle East.⁵ On 6 February 1991 in testimony to the House Foreign Affairs Committee Baker listed five 'challenges' which would need attention after the war: Gulf security structures, arms control, economic reconstruction, improved US energy conservation and reconciliation between Israel, the Arab states and the Palestinians.⁶ The need for a comprehensive Middle East 'peace process' was identified as a prime 'structural' obstacle to a whole cluster of contingent policy objectives.⁷ The Administration had signalled as early as September 1990 - at the Washington Conference, attended by Syrian and Israeli delegations, and others - that a successful conclusion to the Gulf crisis could be the opportunity for a breakthrough in the Middle East. Two conditions were required, however. The first was the need to strengthen links with the Arab states which were willing to take action against Iraq. Second, Israel needed to refrain from actions against Iraq which would have embarrassed the US' Arab allies. The creation of these conditions guided the Administration throughout the Gulf and Kurdish crises. For example it was borne in mind in the drafting of R 678⁸ and in the deployment of PATRIOT to Israel after the Iraqi SCUD attacks.⁹

Another indication of the Administration's concerns and intentions came in Bush's 6 March speech to a joint session of Congress. He then laid out his

⁵ For a discussion of the historic opportunity for the US presented by the Gulf War victory see Abraham Ben-Zvi The United States and Israel: The Limits of the Special Relationship (New York: Columbia University Press, 1993) pp 202-3. For a discussion of the origins and tactical progress of the US diplomatic campaign which led to Madrid in October see King pp 59-60.

⁶ Robert O Freedman 'Moscow and the Iraqi Invasion of Kuwait' in Robert O. Freedman (ed.) The Middle East after Iraq's Invasion of Kuwait (Gainesville: University Press of Florida, 1993) p 101.

⁷ 'The Bush Administration's focus on a Middle East peace settlement was evident from its inauguration' Hussein J Agha and Ahmad S Khalidi Syria and Iran: Rivalry and Cooperation (London: Pinter, for the RIIA, 1995) p 60. See also Talbott on the dominance of Arab-Israeli questions at the State Department in the weeks following the Gulf War cease fire in Nye and Smith (eds.) After the Storm p 27.

⁸ The 'states in association with the government of Iraq' formula used in R 678, to exclude Israel.

⁹ A total of 39 Iraqi SCUDs had been launched at Israel during the Gulf War.

agenda for promoting lasting peace in the Middle East.¹⁰ At the same time the GCC states plus Syria and Egypt published a draft of their own declaration on future Gulf security arrangements: the basis of what became the Damascus Declaration, signed in July¹¹, was first discussed in March. Baker visited Israel 10-12 March and briefed government leaders on the 'peace process'. At the end of his visit, on 12 March, he briefed Faisal Husseini and ten other Palestinian representatives, ostensibly the 'internals' (residents of the Territories, not Tunis-based PLO officials).¹² Egypt took the lead in approaching the 'externals', including the PLO.¹³ This was the first of Baker's eighteen meetings with Palestinians between the end of the Gulf War and the opening of the Madrid Conference.¹⁴

US policy would exploit the opportunities presented by the resolution of the crisis. Just as important - but not emphasised in public - would be the US Administration's freedom to act without the restraining influence of the USSR, which was already close to collapse. A key pre-condition for the success of the initiative was the cooperation of the Arab states, especially the states with borders with Israel and the occupied territories. Some of these states, like Egypt, already had good relations with the US. Others, like Syria, had in the past obstructed US efforts to find solutions to these long-standing regional problems. The Gulf crisis had united most of the Arab world in opposition to Iraq. Despite the hostility of Jordan, Libya and the PLO - which had supported Iraq during the Gulf crisis - the US set out to broker a rapprochement between Israel and her

¹⁰ Text in Washington Post 7 March 1991. Analysis in Marvin Feuerwerker 'Israel, the Gulf War and its Aftermath' in Robert O. Freedman p 245.

¹¹ Rosemary Hollis 'Whatever Happened to the Damascus Declaration?' in Jane M Davis (ed) Politics and International Relations in the Middle East: Continuity and Change (Aldershot: Edward Elgar, 1995) pp 37-60.

¹² Hanan Mikhail-Ashrawi This Side of Peace: A Personal Account (New York: Simon and Schuster, 1995) Chapter 5.

¹³ Louis Cantori 'Unipolarity and Egyptian Hegemony' in Robert O Freedman p 350.

¹⁴ Ashrawi p 82.

neighbours, drawing on the trust it had earned among its Arab coalition partners in its conduct in the previous crisis. In the aftermath of the Gulf War victory, the argument ran, those who had always resisted rapprochement - in the PLO, in the *Likud* (and in the pro-Israel lobby in the US) - might be outmanoeuvred.

Specifically the strands of the policy were: the weakness of the USSR and its inability to support its former Middle East client states (like Iraq and Syria); Syrian weakness and isolation after Iran's defeat in 1988; Saudi support for the US initiative, following US assistance to Saudi Arabia in the Gulf Crisis; the discrediting of the PLO and Jordan. (Later, in the summer of 1992, would come another helpful factor: the election of a Rabin-Peres Labour government on a 'land for peace' ticket, replacing the hawkish *Likud*-led coalition.) These intentions were noted approvingly by the US' traditional allies in the region, most of whom were anxious to build stability. But those traditional allies were also having to adjust to the new superpower and regional power relationships. Turkey, in particular, expected gains as a result of its cooperation with the US and the western European states in the Gulf War coalition.

As soon as the war was concluded James Baker began his shuttle diplomacy designed to create the 'peace process'. His first visit to Israel was from 11-12 March, days after the end of the Gulf War. Between the war and the Madrid conference in October he made seven trips to the Middle East.

Whereas the initiative was designed and driven from Washington the Administration took pains to encourage the Soviets to contribute to the process. After the August 1991 coup attempt US spokesmen sought to bolster Gorbachev's authority by giving increased publicity to US-Soviet cooperation in the Middle East peace process.

Just as the initiative was gaining support the Kurdish crisis occurred. The humanitarian plight of the

mostly-Kurdish victims of the fighting brought calls for a further US military intervention in the region.

The account of the crisis (below) will further explain why Bush and Baker were reluctant to comply. Domestic political concerns made it desirable for US forces to return to base without delay. It will also explain how the Administration's reluctance was eventually overtaken by the display of public concern, in the US and in Europe. The humanitarian crisis required, first, a relief operation which would supply aid from the air. Later it became clear that the humanitarian mission would not be achieved without a military intervention on the ground. The US Administration yielded to the first demand and then the second. But its reluctance was to show itself again in the desire for the urgent withdrawal of forces, just as soon as the job could be seen to be done. General Colin Powell devoted a one-page passage in his autobiography to the Kurdish crisis and the international operation to rescue the Iraqi people who fled north into Turkey. But the two-paragraph section is immediately followed by a statement about the return of US forces and the celebration parades. Even in retrospect Gen Powell moves quickly over the events of PROVIDE COMFORT and dwells on the triumphant return of the troops:

In seven [sic] weeks Provide Comfort brought nearly half a million Kurds home. I watched Shalikashvili run this political and military maze with masterful skill and concluded, once again, that here was a soldier up to any mission.

The troops came home to a wildly cheering America. I took part in victory parades in Chicago and Washington and in a ticker-tape parade in New York. Alma and I rode in a white Buick convertible.¹⁵

By April 1991 the diplomatic conditions had been achieved. In particular the 'pro-Israel' lobbies had to recognise that the Administration had achieved a national triumph against one of Israel's most determined enemies. The president was in a position

¹⁵ Colin Powell with Joseph E Persico A Soldier's Way (New York: Random House, 1995) pp 531-532.

to coerce Israel to accept terms which represented a real basis for agreement with the Arabs. This was an unique situation: in the past no president had been able to disregard domestic lobbies in policy-making vis-à-vis Israel and her neighbours.

The most urgent and prominent foreign policy issue facing the Administration in March 1991 was not the Kurdish revolt. It was Israel's demand for \$13 bn in loan guarantees for housing which the *Likud* government planned to build in the Occupied Territories. (Israel's housing problem was acute: 300,000 immigrants from the USSR and Ethiopia had arrived in Israel since 1990. An additional 500,000 were expected before the end of 1993.¹⁶)

In March James Baker had recommended that Congress should authorise \$ 650m as emergency supplementary military aid for Israel. But this had been an inducement for Israel to cooperate with the emerging US-led peace process. (The confrontation with Israel over the loan guarantees continued until September. In that month Israel attempted to mobilise the pro-Israel lobby in Congress - specifically the votes of legislators who had previously received campaign contributions from AIPAC (American Israeli Public Affairs Committee) - to defeat the president's withholding of the guarantees. Bush replied with a threat of a veto on any restraining legislation. By the Senate vote on 2 October it was clear that Israel's supporters in Congress had failed to muster an overriding two thirds majority vote. At that vote the relative weakness of the previously all-powerful lobby was revealed. This was the turning point; thereafter Israel's *Likud* government realised that it could not resist Washington's pressure for a conference in Madrid. The announcement that it would participate came on 20 October, after an anguished internal debate. It could only take comfort from the open agenda and the lack of preconditions.)

¹⁶ John King Handshake in Washington: The Beginning of Middle East Peace (Reading: Garnet, 1994) p 65.

The Arabs, on the other hand, were to make concessions throughout the Spring and Summer. After the war, following pressures coordinated by Egypt, Syria abandoned its long-standing refusal to negotiate directly with Israel¹⁷. Syria, which had used the Hizbollah to pressure the Israelis in Lebanon, recognised at that point that there was more to be gained from diplomacy than the use of force, through surrogates.¹⁸ The past cooperation of Egypt and Syria in the 'Gulf war' coalition allowed their leaders to join in a new, even-handed, US-led peace process. By 27 September the PLO which had publicly supported Iraq in the Gulf Crisis had also agreed to participate, despite the threat of a damaging split in its ranks.¹⁹ At a meeting with leading Palestinians on 20 September James Baker had given far-reaching assurances on the likely outcome of the Madrid conference. It was these assurances which allowed Arafat to prevail in the PLO debate.

Above all the Administration wanted to avoid any long-term commitment to the protection (still less to the political independence) of the Kurds: this consideration drove the US to insist on an operation which would be limited in scope, cost and duration. Although it was public opinion which forced the Administration to intervene on behalf of the Kurds, officials acknowledged that an intervention would have some medium-term strategic merits. It would demonstrate US support and assistance for Turkey (and maintain pressure on Iraq). The Kurdish connection would touch sensitive US-Turkish concerns, however, and renew awkward 'bridge or barrier' questions, on both sides.²⁰

¹⁷ Cantori p 350. The Syrian decision still came as a surprise when, on 14 July, President Asad agreed to face -to-face talks without pre-conditions. The announcement convinced the still-undecided Prime Minister Shamir that he support full Israeli participation in Madrid. Feuerwerker in Robert O Freedman, p 247. At the Madrid Conference itself Syria suddenly refused to participate in bi-lateral meetings with the Israelis and tried to persuade other Arab delegations to follow suit. Adam Garfinkle 'Jordanian Policy from the Intifada to Madrid' in Robert O Freedman p 323.

¹⁸ Steven Pelletière Asad and the Peace Process: the pivotal rôle of Lebanon (Carlisle Pa.: US Army War College SSI, 1995) p 22.

¹⁹ David Hurst 'Arafat backs precious opportunity' The Guardian 24 September 1991.

²⁰ 'Missing Dividend' Time 3 May 1991.

THE SOVIET GOVERNMENT'S POST-GULF WAR POLICY IN THE MIDDLE EAST

The Gulf crisis occurred in the USSR's last year as an integrated state. The pressures which were eventually to lead to its disintegration were already at work: throughout 1991 Gorbachev and his supporters fought to control the imminent collapse. Since 1985 the economic plight of the USSR had forced a Soviet retreat in foreign policy, from the military withdrawal from Afghanistan to the relaxation of control in eastern Europe.

This weakness underpinned the spirit of Soviet cooperation with the West which had begun in 1987. During that year the USSR signalled its willingness to cooperate with Western states over certain international problems. The first came in July at the famous tea-party at the UN in New York at which the P5 representatives made the agreement which resulted in the adoption of SCR 598, the peace plan for the Iran-Iraq War. The second was Gorbachev's *Pravda* article of 17 September. The article offered Soviet cooperation with the West on the basis of 'interdependence'. In the same year the disaster at Chernobyl had emphasised the need for international cooperation in environmental protection - as well as in economic and security matters.

By late 1990 the USSR was determined to acquire Western aid. It also sought the support of Western governments for IMF and World Bank loans.²¹ Heavy Western assistance began in 1988, led by West Germany. During the German unification negotiations in 1990 German financial aid and investment in the USSR increased noticeably with a DM 12 bn grant for housing and reconstruction and DM 3 bn in interest free credit. At the end of 1990 the US announced its first large bi-lateral aid package: \$1 bn credit support for Soviet purchases of US agricultural goods. The flow of

²¹ Angela Stent 'Russia's Economic Revolution and the West' *Survival* Vol 37 No 1 Spring 1995 pp 125-6.

funds to the former USSR was further increased after the January 1992 conference on assistance to the Newly Independent States, held in Washington DC. The European Bank for Reconstruction (ERBD), created by the EU, came into existence later that year.

Soviet economic weakness forced the government to comply with US policy in the Gulf. In 1991 the USSR was a partner in the US-led Middle East peace process. But from time to time the Soviets felt the need to demonstrate their independence from the policy of the Western states.²²

Soviet policy in the Gulf crisis was therefore designed to maintain the wider cooperative arrangements with the US²³ and improve relations with those Arab states which had opposed the invasion of Kuwait. The success of this policy with regard to the GCC can be seen in the achievement of several long-standing Soviet diplomatic goals. From 1964-1985 only Kuwait amongst the Gulf Arab states had agreed to establish full diplomatic relations with the USSR. In 1985 Oman and the UAE had accepted the Soviet offer, as did Qatar in 1988. But Saudi Arabia and Bahrain resisted. As a result of Soviet cooperation against Iraq on 17 September 1990 Saudi Arabia agreed to establish full relations with the USSR. Bahrain followed on 28 September. More practical assistance followed. In October 1990 Saudi Arabia, Bahrain and Kuwait announced a \$4 bn loan to the USSR.

The Soviets, seeking the prestige of a successful mediation effort, sent several diplomatic missions to the region during the crisis. Their first priority was the release of their own military and civilian advisors held hostage (along with Westerners) in Iraq. At the same time they tried to delay the build-up of coalition forces, and the adoption of UN mandate for intervention, especially after Bush's 8 November

²² Such as the Primakov mission to Iraq in January 1991.

²³ The importance both the US and the USSR attached to their cooperation, and their intention to work together to resolve the Gulf crisis, can be seen from the concluding communiqué at the Helsinki summit, held in September 1990.

announcement of a decision to double the US forces deployed in Saudi Arabia. The increased size of coalition forces would give the US and its allies an offensive land-air capability for the first time in the crisis. During the debate on UNSC R 678 the Soviets successfully urged a compliance deadline of 14 January, not 1 January as the US had proposed. The Soviet policy was also designed to demonstrate a degree of independence from coalition policy, to provide a base for possible Soviet mediation and to provide the foundations for renewed cooperation with Iraq after the crisis, however it was resolved. For example despite the actions it took condemning Iraq in the UN Security Council the USSR continued to station its military and civilian advisors in Iraq up until the eve of the outbreak of war. Again, the USSR welcomed Saadoon Hamadi, the Iraqi deputy prime minister, on a visit to Moscow in August 1990. At the end of the visit Foreign Minister Shevardnadze commented favourably on the Hamadi's proposal that the release of foreign workers taken hostage by Iraq should be linked to a withdrawal of coalition forces from Saudi Arabia. This was contrary to US policy. Robert O Freedman has described this as a 'minimax' Soviet strategy:

[The strategy] involved doing the minimum necessary to

preserve US-Soviet relations and foster the development of Soviet ties with the GCC states, Egypt and Syria, while at the same time maximising the amount of influence Moscow could maintain in Iraq.²⁴

Whereas the USSR supported the twelve UN Security Council resolutions which condemned Iraq before the war began it also repeatedly called for a peaceful resolution of the crisis. If force had to be used, the Soviets argued, it would be better those forces were under UN control. It declined to commit forces, even non-combat forces, to the coalition military effort.

²⁴ Robert O Freedman p 82.

It appears that the Soviet policy in the crisis was not the result of a complete consensus within the Soviet government. Shevardnadze's resignation in December indicated divisions on this and other matters. Nevertheless by the start of the coalition air campaign the USSR had successfully balanced its policy between the respective parties in the crisis. During the 6-week war the policy continued unchanged. There was however a noticeable increase in anti-US rhetoric in the Soviet press as the hard-liners gained influence at the expense of the reformers. The pretext for anti-US statements was the realisation that the coalition intended to conduct a protracted air campaign targeting Iraqi infrastructure (inevitably causing Iraqi civilian casualties) not just the invasion forces in Kuwait. During his first visit to Washington in January the new Soviet foreign minister, Alexander Bessmertnykh, observed that the Security Council mandate authorised action to liberate Kuwait, not to destroy Iraq:

There are fears... that we are entering upon a second phase of the conflict, where, in addition to a resolution of the task stipulated by the Security Council resolutions - namely the liberation of Kuwait - the fear is beginning to mount that Iraq is being subjected to very serious destruction, and there is a mounting danger to Iraq's peaceful population.²⁵

During this visit James Baker publicly accepted some linkage between the resolution of the Gulf Crisis and subsequent international action to settle the Israel-Arab and Israel-Palestinian conflicts.

During the war the Soviets made repeated efforts to mediate. But Iraq was unwilling to make the concessions which would have made such mediation successful. The US (and the Western coalition partners) showed respect, in public at least, for the Soviet mediation efforts.

During the 100-hour coalition ground offensive the Soviets assisted in the arrangement of the cease fire.

²⁵ Foreign Minister Bessmertnykh, FBIS: USSR, 28 January 1991, p 4.

But viewing the prospects for independent action in the post-war Middle East Gorbachev faced the prospect of a comprehensive 'peace process' achieved by US influence alone. If there was to be a peace process then the Soviets wanted it to be a deliberate diplomatic process, jointly sponsored by themselves and the US. Another of their objectives was to prevent a permanent presence of US land-air forces in the region. After the war the Soviets sought to restrain the US-led coalition from taking the most severe measures against Iraq and its regime.

CONCLUSIONS

The conclusions of this chapter are as follows:

- All the sources agree that the US was at first reluctant to participate in an intervention operation in Iraq in April. The Administration feared domestic criticism of an 'incomplete victory', 'quagmire' and 'fragmentation'. But this study concludes that there may have been another reason for that reluctance. The US was preparing to launch a peace initiative in the Middle East. It was designed to end years of confrontation between Israel and its neighbours. Another intervention into Iraq, this time interfering in its *internal* affairs, would risk offending all the other Arab states whose support would be required for the success of that initiative. It required an even more powerful motive for the Administration to overcome these reasons for non-intervention. This more powerful force was the strength of US public opinion which demanded US participation. When the intervention force had achieved its mission the same motives which had underpinned the Administration's first instincts - ie non-intervention - would lead the US to urge its coalition partners to agree to an early withdrawal of the forces deployed inside northern Iraq.
- The USSR, by then dependent on Western economic support, continued to assist the US in its policy against Iraq. But it was keen to limit the long-term presence of the US forces in the Gulf region. It

wanted a prestigious role in post-Gulf War diplomacy and the continuation of good working relations with the US in wider post Cold War issues. In sum it wanted to present itself as a powerful state capable of independent action: that objective drove it to cooperate with the US and its allies in the resolution of the Gulf crisis. The same thinking would determine its conduct vis-à-vis the Kurdish crisis which followed. It would cooperate with the Western states but would show its independence by its public warnings to the West to respect Iraqi sovereignty.²⁶

²⁶ For further comments on US and Soviet policy in the crisis see p 260-263 below.

Part 2 - Case Study

CHAPTER 7

SECURITY COUNCIL RESOLUTION 688

This chapter contains an analysis of Resolution 688, the only formal action taken by the UN Security Council in response to the Kurdish crisis. Adopted after barely 24 hours' consideration, on 5 April the resolution tasked the Secretary-General to investigate humanitarian conditions in Iraq and to coordinate relief work. This tasking led to the deployment of *rapporteurs* and special representatives.

The resolution was drafted, discussed and adopted at a time when the only form of intervention operation under consideration was a plan to air-drop supplies to the distressed people in the mountains on the Iraq-Turkish border. The formation of a coalition to send land-air forces into the airspace, and onto the territory, of Iraq had not even been proposed. So the resolution did not address, let alone authorise, the action which took the name PROVIDE COMFORT. The text of the resolution and the speeches of delegates did, however, address important questions on the international community's right to intervene in crises created by intra-state conflict. It is noteworthy that the Council did not return to the question of intervention after the coalition states had resolved to intervene. Council members were willing to let their consideration of the Kurdish crisis rest after making their statements on 688. They did not want to apply themselves to the more controversial questions raised by the military action taken after 688 was adopted.

The purpose of this chapter, therefore, is to describe the terms of 688 and the debate which took place at the time of its adoption. The structure is as follows:

- some observations on the text of R 688
- the debate in the Security Council
- commentary

- text of SCR 688

The conclusions of this chapter do not challenge the consensus of academic opinion. They are, nonetheless, made in the light of opinions from a variety of sources, some of them recent in origin. The conclusions also include some judgments between conflicting assessments.

THE TEXT OF THE RESOLUTION

In April 1991, after the Kurdish and Shia revolts against the Baath regime in Iraq had failed, the Security Council adopted two resolutions in connection with the on-going crisis. The first, R 687, laid down cease-fire conditions and made post-war security arrangements to restore international peace and security to Iraq and its neighbours. In the opinion of one writer R 687 set an important precedent for the UN. It attempted to regulate the *future* behaviour of a state it had found guilty of aggression. 687 was therefore, a continuation of enforcement measures and the basis of a peace treaty.¹ The dual purpose of the resolution made it hard to implement. This resolution was adopted on 3 April, at the end of five weeks of informal consultations between the members of the Council and the representatives of other concerned states. In late March, at the final stage of drafting R 687, France proposed the insertion of a Chapter VII clause condemning Iraq for its repression against the Kurds and Shia, into the resolution. The idea had originated in a comment by the Austrian delegate. The US and the UK declined to support France because they feared that the Chapter VII language would provoke a Chinese veto. Yemen and Cuba also opposed the draft amendment. So the clause was dropped, much to the relief of China which then abstained on, rather than vetoed, 687.² The Council did refer to the continuing Iraqi repression of the minorities, however, by inserting a provision that economic sanctions would be reviewed periodically in the light of the 'policies

¹ Ian Johnstone Aftermath of the Gulf War: An Assessment of UN Action (New York: Lynne Reiner for the International Peace Academy, 1994) p 1.

² Stephen Robinson 'The Toughness needed to avoid another Vietnam' Daily Telegraph 9 April 1991.

and practices of the government of Iraq' (Paragraph 21). This can be interpreted as a reference to Iraq's internal, as well as external, policies. Several states noted the plight of the Kurds in the explanation of their votes on 687³. This device did not allay the more general concerns of some other states that, in the case of R 687, the Council was acting *ultra vires* by meddling in the 'domestic jurisdiction' of Iraq.

Diplomats from the Third World could be heard muttering in the corridors about the sacrosanct principles of non-interference in the internal affairs of member nations.⁴

The second, R 688, dealt with the humanitarian crisis in northern and southern Iraq - and the emergency caused by the flow of refugees into Turkey and Iran - which had arisen because of the Iraqi repression of the Kurds and Shiite populations during and after the revolts. This second resolution was debated and adopted on 5 April after consultations lasting no more than 24 hours.

On 4 April the United States announced its plan for an air operation to drop aid to the Kurds in northern Iraq. On 5 April the Security Council debated and adopted R 688. The quick passage of R 688, and its adoption by a slender majority (but without amendment), conceals the intense diplomacy which preceded the formal debate.⁵ Other examples of effective Western diplomacy earlier in crisis can be seen in the discussion surrounding Rs 678 and 687. In R 678 Western states anticipated a problem in retaining the support of the Arab coalition members if Israel were to be drawn into the fighting against Iraq. They could not prevent Israel from attacking Iraq - if it was acting in self defence under A 51 - but they could draft the Security Council mandate in a way which would exclude Israel from the states

³ Johnstone p 18.

⁴ Robinson (Note 2 above).

⁵ See C Greenwood 'New World Order or Old - The Invasion of Kuwait and the Rule of Law' Modern Law Review London March 1992 pp 169, 177. On the care taken by coalition states, especially the UK and the US, in framing policy with an eye to international law, see Adam Roberts 'International Law and the Use of Force Paper 1' in New Dimensions in International Security Part 2 Adelphi Paper 266 Winter 1991/2 pp 53-63.

empowered to reverse the Iraqi invasion of Kuwait. Accordingly they inserted preamble language to confine the mandate to 'states acting in cooperation with the government of Kuwait' in R 678. This strengthened the coalition, especially when there was a danger of Israel unilaterally counter-attacking Iraq in response to the SCUD attacks in December and January. In the second the concerns of China and Russia over the authorisation for humanitarian intervention were adopted in the 'cease-fire' resolution R 687, and R 688. In particular the drafting indicates how, as the international crisis continued over the months from August 1990 to April 1991, Western diplomats became adept at anticipating and accommodating the concerns of potentially obstructive Council members, particularly China and India (and to some extent the USSR). The resolution also needs to be compared with the other 'Gulf Crisis' resolutions⁶, both for the voting record of the members⁷, and the vehemence of the language. After the original 'A 39 determination' (R 660) in early August, R 688 was the only 'Gulf crisis resolution' - apart from a purely procedural one concerning a committee inside the UN monitoring sanctions against Iraq - which did not invoke Chapter VII.⁸

In early April as the full extent of the Kurdish Crisis became clear Turkey⁹ and France¹⁰ requested a

⁶ The significant resolutions were :

R 660 (2 August) Identified a threat to international peace, under A 39, condemned the invasion, and demanded that Iraq withdraw. (Note : the USSR insisted on the deletion of 'act of aggression' in the text - Greenwood p 159.)

R 661 (6 August) Imposed economic sanctions on Iraq. Later refined by Rs 665, 666 and 670.

R 678 (29 November) 'all necessary means' authorisation. (Note : the USSR insisted on inserting a 15 January deadline, rather than earlier as preferred by the US and the UK. China abstained on the vote. Greenwood p 166.)

R 687 (3 April) The 'cease fire resolution' which laid Chapter VII mandatory conditions on Iraq, against the possibility of a resumption of coalition hostilities.

688 (5 April) condemned Iraq's repression of its own people and identified the 'consequences of 'the situation as a threat to international peace and security. But there was no explicit authorisation for states to use force to compel Iraq's compliance and did not invoke Chapter VII.

⁷ The Security Council voting records of the states which refused to follow the line taken by the majority deserve attention. In the 'Gulf crisis' debates in 1990 the pattern of voting was unanimity on resolutions which merely condemned Iraq. Yemen and Cuba voted against resolutions which imposed Chapter VII sanctions against Iraq (including 678.) China voted in favour of the earlier resolutions (condemnation and non-forcible sanctions) but abstained on the final vote (678) which authorised 'all necessary means' (ie the use of force). See Note 6, above.

⁸ The Council is obliged to identify a threat of international peace and security before it proceeds to authorise 'enforcement' measures under Chapter VII of the Charter.

⁹ Letter S/22435 dated 2 April.

meeting of the Security Council.¹¹ The Council met on 5 April and addressed a draft resolution - presented to the Council as document S/22778 and later adopted as R 688 - sponsored by Belgium and France.¹² After a short debate the draft resolution was adopted, without amendment, on the same day. Of all the resolutions concerning the Gulf Crisis adopted by the Council R 688 was approved by the narrowest margin. The draft was accepted on a vote of ten in favour, three against and two abstentions: Cuba, Zimbabwe and Yemen, quoting the principle of sovereign rights of states, voted against the draft resolution. The two abstentions were China and India.¹³

SOME GENERAL POINTS OF INTEREST IN THE TEXT OF 688

- The resolution refers to '*Iraqi civilians*', with only brief references to Kurds and Shia. This description of the suffering people avoided, where possible, references to ethnic groups inside Iraq. In doing so the sponsors hoped to avoid the accusation that they were attempting to endorse any of the warring factions in a civil war or internal political struggle. Some would interpret the minimal use of the word 'Kurd' as an act of deference to Turkish and Iranian government practice and the minimal use of the word Shia as an attempt to avoid invoking memories amongst the US public who might recall the hostage taking of US embassy staff by militant 'Shia' groups in Iran in 1980-82 (and the subsequent hostage-taking of Westerners by the pro-Iran Hizbollah faction in Lebanon). Freedman and Boren attribute the lack of international military action to assist the marsh Arabs in the south east of Iraq to the pressure from Saudi Arabia:

¹⁰ Letter S/22442 dated 4 April.

¹¹ Under A 99 the Secretary-General could have brought the crisis to the attention of the Security Council as a 'threat to international peace and security'. He did not. This fact will be recalled when his contribution to the resolution of the crisis is assessed, below.

¹² The draft resolution was later co-sponsored by the USA and the UK.

¹³ A resolution is adopted on a minimum vote of 9 of the 15 members, provided that the five permanent members 'concur'. It has become the practice of the Security Council to consider an abstention of a permanent member as 'concurrence'.

One reason why the Shia were not given the same protection as the Kurds was that Saudi Arabia did not want to see the strengthening of Iran which was thought to have helped organise the Shia rebellion and would be likely to benefit from any increase in Shia autonomy in Iraq.¹⁴

- In the preamble of the draft resolution *specific reference was made to A 2(7)*. It affirms 'the commitment of all member states to the sovereignty, territorial integrity and political independence of Iraq and all States in the area'. This statement was designed to assure members of the Council that the sponsors of R 688 fully accepted the importance of the principle contained in A 2(7). The measures proposed would not amount to an intervention in matters 'essentially within the domestic jurisdiction' of Iraq (as defined in A 2(7)), neither would they amount to an armed attack on 'the sovereignty or territorial integrity of Iraq' (as defined in A 2(4)). Most of the references to Iraqi sovereignty in the debate on R 688 invoked A 2(7) and thus referred to the weight of customary law supporting the right of states to act as they wish within their own territories. Indeed the resolution appears to have been drafted to avoid a statement defining limits to a state's sovereignty. The explicit or implicit opinion of the states which voted against the Resolution, and those who abstained, was that the Security Council had no authority to involve itself with a matter of 'domestic jurisdiction'. In taking this position these states warned of dire consequences for international peace and security if a 'right of intervention' was to become established.

- There was *no specific reference to earlier resolutions, nor any specific 'finding' under A 39, nor any reference to Chapters VI or VII*. The draft did not 'recall' such resolutions as 678 and 687.¹⁵ The absence of any reference to Rs 678 and 687 in R 688 avoided confirmation or revocation of the delegation

¹⁴ Freedman and Boren page 89, note 75.

¹⁵ Johnstone p 37. See p 167 ('second operative paragraph'), below.

of enforcement authority to the coalition states in the Gulf War. 678 had empowered states 'acting in association with the government of Kuwait'¹⁶ to restore international peace and security. This could have become an 'open-ended' authorisation for the coalition to use force, and to continue doing so until the participating states decided that peace and security had been restored. An early draft of R 687 suggested that the authority for forcible action derived from earlier resolutions. This language was deleted, however, at the insistence of the Chinese. China wanted to be able to justify its non-veto of 687 on the grounds that the resolution had brought the war to an end and, by implication, terminated the 'all necessary means' authority which had caused China to abstain on 678. Whereas 687 had partially reiterated this authority - without the 'in association' language - operative paragraph 4 (OP4) of 687 implied that it would be for the Council (ie not any state or group of states) to decide on 'such further steps' necessary to enforce Iraqi compliance with the terms of the cease-fire. Likewise the text of R 688, by omitting any reference A 39 or resolutions which had cited Chapter VI or Chapter VII in terms, chose not to specify the legal powers under which the resolution made demands on Iraq.

Whereas 688 omitted any mention of A 39 (or of Chapter VII) several features of the resolution suggest 'enforcement'. The several references to 'international peace and security', the transborder effect of Iraqi shells having landed in Iran¹⁷ and Turkey¹⁸ (as well as the effect of refugee movements) strongly suggests that the Council had in mind 'enforcement' action. Roberts notes that this omission was deliberate and designed to satisfy the concerns of Council members anxious to authorise a minimal degree of intervention (access for aid agencies etc) in an exceptional case.¹⁹

¹⁶ See p 160, above.

¹⁷ Letter from Iran UN doc S/22436 dated 3 April 1991. This letter alleged that 3 members of the Iranian security forces had been killed by these shells.

¹⁸ Note 9, above.

Despite its peremptory language the resolution contained no specific reference to Chapter VII (or Chapter VI). This meant that the resolution avoided any mention of 'enforcement' but likewise made no mention of 'peaceful resolution of disputes'. Out of the ten Security Council resolutions adopted in respect of the Gulf Crisis between 1 August 90 and 5 April 1991, only two resolutions - R 669 (adjusting the mandate of the UN committee supervising the sanctions against Iraq) and 688 - omitted mention of Chapter VII²⁰. Accordingly the draft did not call for international action to stop the repression, just for the relief of suffering and international assistance for the aid agencies. No punishment for non-compliance or obstruction by Iraq was laid down, nor was any group of states or agency mandated to force the issue in the event of non-compliance. All these are normally part of mandatory resolutions, like R 678 and 687. Other enforcement measures, short of the use of force, were in any case still in operation against Iraq, under R 687, R 678 and earlier resolutions. Packer²¹ identifies 'standards of performance' for Iraq but no sanctions provision nor a nomination of a party authorised to enforce sanctions in the event of Iraqi non-compliance. In his view R 688 was in the same 'condemnatory' category as R 660; it would have needed its own '678' to authorise enforcement.

Greenwood speaks of 688 as a non-binding 'recommendatory' resolution, meaning that it did amount to a new mandate for forcible action (nor seek to impose an obligation on other member states to take further action against Iraq). It is Greenwood's contention, nonetheless, that even with these diplomatic omissions 688 retained the essentials of a continuing authority for the use of force:

¹⁹ According to Greenwood it was the USSR which insisted, in informal consultations, that no A 39 finding should be included in the draft resolution. This was accepted, despite the fury of the French delegate whose insistence on identifying Iraq's 'crime against humanity' was heard in the debate.

²⁰ Fifoot p 159.

²¹ Source: interview with John Packer, a Canadian lawyer working for UNHCR in Geneva at the time of the crisis.

The finding in [R] 688 that Iraq's repression of its civilian population created such a threat, taken together with a continuing mandate in 687 might therefore furnish a legal justification for the operation in northern Iraq.²²

Adam Roberts supports the Greenwood case:

Thus it was possible for lawyers to say that the formal legal basis of the safe havens operation was by no means exclusively ... humanitarian: to the extent that the safe havens had a degree of UN authorisation, it was more on the familiar ground of threats to peace and security.²³

The Greenwood case is persuasive but not conclusive.

Whereas there was no citation of the earlier resolutions, nor A 39, every other feature of the resolution points towards a mandate for action, using force as necessary. 688 condemned the repression of the Iraqi civilian population 'the consequences of which threaten international peace and security'. The resolution went on to demand that Iraq cease these attacks and allow aid organisations immediate access to the stricken population. There was no explicit authorisation for states to use force to relieve the condition of the 'Iraqi civilian population'.

The effect of the diplomatic language was to allow China, the USSR and other 'non-interventionist' Council members to accept 688 as a stand-alone resolution.

- It is also worthy of note that the plight of the Kurds and the threat to international peace and security caused by their flight was *not brought to the Council by the Secretary-General (in accordance with A 99)* but by several members of the Council. This is not unusual. In the light of the subsequent conduct of the UN in the crisis, however, it might be taken as partial corroboration of the view that the Secretariat was from the first reluctant to involve the UN in what was, arguably, an internal Iraqi matter.

²² Greenwood p 177.

²³ Adam Roberts 'Humanitarian War: military intervention and human rights' International Affairs 69 No3 p 437.

- Summary. It is clear that the Council, faced with a humanitarian crisis (with international consequences) rather than a case of international aggression, was not prepared to authorise forcible action against Iraq as an extension of the mandate which had authorised the coalition action in the Gulf War. It took action which condemned Iraq but did not set in motion punitive action. Despite the peremptory language of the resolution (and the almost unanimous condemnation of Iraq in the debate) calling on the Iraqis to terminate their repression of the 'Iraqi civilians' in distress, the resolution did not go farther than a demand for access for, and a request for action by, the aid agencies and a diplomatic initiative by the Secretary-General.

SCR 688 - SOME POINTS OF DETAIL

The first operative paragraph (OP1) contained the following:

[The Security Council] *Condemns* the repression of the Iraqi civilian population in many parts of Iraq, including most recently the Kurdish populated areas, the consequences of which threaten international peace and security in the region.

Here the resolution identified a link between internal repression and a threat to regional stability: it connected the internal repression with the threat to international peace and security created by the 'transborder effects'²⁴. The resolution made the connection in order to satisfy the concern that a simple reference to internal conditions would be judged to be interference in Iraq's 'domestic jurisdiction' and as such a contravention of the Charter. In the discussions of the early drafts of R 687 several members of the Council expressed concern over the apparent willingness of the sponsors to 'impose' an interpretation of the long-disputed Iraq-Kuwait frontier, disregarding Iraqi objections. There

²⁴ Johnstone pp 19-23.

had also been debate in the Council over the Security Council's right to impose a disarmament regime on Iraq. (These discussions should be seen as a continuation of long-standing debate over the 'creeping' extension of Security Council competence. Briefly, members of the NAM accuse the US, the UK and France of seeking to expand the Security Council's area of competence to give themselves a wider, privileged, role in resolving international disputes.)

The sponsors eventually satisfied these concerns by confirming a past frontier agreement which had been reached in negotiations between Iraq and Kuwait, and by declaring that disarmament was an essential part of the restoration of 'international peace and security'. In 688 it is noteworthy that the Council was prepared to link 'internal repression' and 'regional stability' without taking the next logical step: making an explicit reference to A 39.²⁵ But OP1 makes no such reference.

The second operative paragraph contains the following:

[The Security Council] *Demands* that Iraq, as a contribution to removing the threat to international peace and security in the region, immediately end this repression and expresses the hope in the same context that an open dialogue will take place to ensure that the human and political rights of all Iraqi citizens are respected.

Although there is no reference to Chapter VII, the peremptory tone of 'demands' is the language of enforcement, rather than of the 'peaceful settlement of disputes'. The demand, furthermore, reinforces the linkage with the internal repression. It emphasises the prominence of internal conditions as a trigger for Council action, rather than regional instability. Finally there is a reference, not only to *human* rights, but, in a significant departure from previous

²⁵ A 39:

'The Security Council shall determine the existence of any threat the peace, breach of the peace, or act of aggression, and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and stability.'

A finding under A 39 is a necessary precondition to a Security Council enforcement action, under Chapter VII.

practice, to *political* rights as well. Ideological differences between states have, since 1945, inhibited the United Nations from defining 'political rights'. All could agree on the importance of 'the rights of states' but no agreement could be expected on the 'political rights': ie rights of *citizens* inside states. (In the Charter the term 'political rights' occurs only once, in the section concerned with Trusteeship. It merely affirms the duty of states administering Trusteeship territories to respect the (undefined) political rights of the people of that territory.) In R 688 the Security Council went further: the reference to 'political rights' for the first time recorded the implication that there exists a universal set of political rights, (and that Iraq had violated them). Differences between member-states over the interpretation of A 2(7) on the broader issue of 'domestic jurisdiction' are overshadowed by the intense sensitivity surrounding statements on political rights, an issue normally considered far too divisive to inject into debates which seek to establish a consensus for action by the Council.

In the third operative paragraph (OP3):

[The Security Council] *Insists* that Iraq allow immediate access by international organisations to all those in need of assistance in all parts of Iraq and to make available all necessary facilities for their operations.

Here the resolution, continuing to use peremptory language, requires Iraq to admit foreign aid workers to all parts of the state and give them assistance. Again both the strength of language and the order for Iraq to waive normal border controls overruled Iraq's sovereign rights. This language reinforces the impression of enforcement. One commentator has drawn attention to the similarity of language in this paragraph to the language in GA R 43/131(8 December 1988) and 45/100 (14 December 1990).²⁶

²⁶ The two resolutions were adopted to state (and then to re-state) the importance of state authorities, other states and NGOs providing humanitarian services to victims (including displaced persons and those who have sought refuge in other states) of natural disasters. Whereas the underlying precept is that of

In the fifth operative paragraph (OP5) the Council called upon the Secretary-General:

to address urgently the critical needs of the refugees and displaced Iraqi population.

Calls upon the Secretary-General to investigate and act normally come about when the Council agrees that action is required but cannot agree on a course of action or a precise mandate. It is also a device to throw the responsibility for deciding action, and for funding any action, on the Secretariat.²⁷

In the sixth operative paragraph (OP6):

[The Security Council] Appeals to all Member States and to all humanitarian organisations to contribute to these humanitarian efforts.

Taken with the mandate to the Secretary-General, in OP5, the resolution committed the UN first to encourage, and then to take charge of, humanitarian relief inside Iraq and in the border areas of the neighboring states. This language indicates that the sponsors of the resolution, at the least, intended that any subsequent operation should be conducted by the UN. This mandate led to the Secretary-General's initiative in appointing Prince Sadruddin Aga Khan and Eric Suy. (Prince Sadruddin was to become the Executive Delegate of the UN Secretary General for the UN Humanitarian Programme for Iraq, Kuwait and the Iraq/Iran and Iraq/Turkey Border Areas. Eric Suy was appointed to conduct a fact finding mission on behalf of the Secretary-General.)

The mandate for UN action furthermore became the backdrop for the (later) debate over the use of UN-assigned forces (blue helmets), or UN Guards, in an operation inside Iraq. (Despite this mandate, for reasons explained below, the Secretary-General was later to rule out a blue helmet operation. The 'safe

'human rights and fundamental freedoms' both resolutions emphasize state sovereignty. It is noteworthy that the resolutions do not authorize non-consensual interventions. By implication they rule out the use of force by external agencies, even in a humanitarian mission. M Bettati '*Le Droit d'Ingérence: sens et portée*' *Le Debat* No 67(1991) p 14.

²⁷ Senior UKMis official.

havens' intervention was a multinational (coalition) operation conducted [arguably] in accordance with R 688, rather than an operation conducted by the UN itself.)

THE DEBATE

The debate²⁸ in the Council saw nearly all members²⁹ address the question of the right of the Council to authorise enforcement action under Chapter VII in the case of internal repression. The representatives' statements contained, in nearly every case, references to the humanitarian crisis and the repression of human rights. Supporters made the case citing 'transborder' effects and human rights violations. Opponents of intervention cited A 2(7). Some of these opponents insisted that the crisis did not fall under the jurisdiction of the Security Council and urged the involvement of the UN's other agencies: those with responsibility for administering aid (with the consent of the state concerned) but not empowered to apply enforcement measures to any state. Some offered arguments for and against the right of intervention in the current situation. Others spoke in more general terms. Contributions to the debate were made by members of the Council and representatives of other states who, having been invited to speak³⁰, stated their governments' views as non-voting participants³¹ in the debate.³² The delegates' statements are worthy of examination because individually and collectively they reveal the positions of a wider group of states, not just the 15 Council members who could record a vote. In some case Council members' statements provide

²⁸ The official record of the debate in UN document S/PV. 2982, 5 April 1991. All quotations below are from this document unless otherwise stated.

²⁹ The following states were members of the Security Council in April 1991: Austria, China, Cote d'Ivoire, Cuba, Ecuador, France, India, Romania, USSR, UK, USA, Yemen, Zaire, Zimbabwe, Belgium (president in April).

³⁰ Under Rule 37 of the Provisional Rules of Procedure of the Security Council (December 1982) the (non-voting) participation of other members of the UN, not represented on the Security Council, in Council debates is at the discretion of the president of the Council. In the event of a Security Council member objecting to the participation of a non-member the matter is resolved by a vote of the Council.

³¹ In this debate the non-voting states represented were Denmark, Germany, Iran, Iraq, Ireland, Italy, Luxembourg, the Netherlands, Pakistan, Spain, Sweden, Turkey, Norway, Portugal, Canada, Greece. [The record of the debate shows that all the above, except Iraq, supported the draft resolution.]

³² Official record of the proceedings UN document S/PV. 2982 dated 5 April 1991.

interesting comparisons with policy stated by the same states in previous debates and votes at the UN.

Turkey, one of the co-sponsors of the debate, set the parameters for discussion. In the opening speech of the debate the Turkish representative referred to his government's letter³³ to the president of the Council, and described the situation on his country's border with Iraq. This letter, *inter alia*, referred to the impact of mortar shells, fired from Iraqi territory, having landed on the Turkish side of the border.³⁴ He estimated that there were 200-300,000 people on the border, 100,000 newly arrived 'displaced Iraqis' inside Turkey and a further 600,000 still in Iraq but heading for the border. He said:

There is no way in which what is going on in northern Iraq can be justified as an internal affair of that country. Given the scale of the human tragedy and its international implications ... Iraq should stop its attacks on Iraqi civilians...

Turkey requested the Security Council to take action for two reasons:

[to] secure the international threat and secure respect for human rights... Before concluding I would like to make it very clear that in calling for a meeting of the Security Council it was not our intention to interfere in Iraq's internal affairs. We recognise A 2(7) of the Charter and believe it should be scrupulously observed. The steps we have taken have been taken ... threat posed to the stability, security and peace of the region by Iraq's method of repression.

The delegate acknowledged the obstacle of A 2(7) but argued that the scale of the 'tragedy' and flow of refugees took the situation out of the 'domestic jurisdiction' category. It had become a regional crisis involving neighbouring states. He explained his appeal for action on the grounds that a threat to

³³ UN doc S/22435 dated 2 April 1991.

³⁴ A letter from the authorities in Iran to the Security Council referred to the recent [Iraqi] shelling of an Iranian border town and the resultant deaths of three border guards. UN doc S/22436 dated 3 April 1991.

regional stability existed due to the flow of refugees caused by internal repression. He proposed action which would restore peace and security. Although Turkey condemned the repression of 'Iraqi civilians'³⁵ it did not propose any (punitive) action against Iraq but rather, action to alleviate the cross-border impact of Iraq's actions. Later Turkey was to appeal for funds to pay for relief activity inside Turkey but also to insist that the international relief effort should focus on encouraging the DPs to return home. Turkey wanted the longer-term assistance to the DPs to be given *inside Iraq*.

The delegate representing Pakistan, who later voted in favour of the draft resolution, first stated that his government 'as a matter of principle is opposed to any form of interference in the internal affairs of any country' but went on record its 'dismay at the infringement of human rights now taking place in Iraq.' Later in his statement he said he would support 'any action in Iraq to prevent the further loss of life'. He reminded the Council that during the Gulf War he had expressed concern for the Iraqi victims of the [coalition] bombing. Pakistan was therefore motivated, in both cases, by the desire to prevent the loss of life and not by partisan support for either side in the wider dispute.

The Iraqi delegate blamed the movement of refugees on 'the starvation, lack of water and electricity inflicted by the allies action' as well as the action of 'saboteurs who have been sponsored by outside governments'. He denounced the draft resolution as a violation of A 2(7) but encouraged the UN 'to send a delegation to Iraq to ascertain the real situation'.

The Romanian delegate, who later voted in support of the draft resolution, praised the inclusion of the reference to A 2(7) in the draft resolution and stated the view that

situation of ... components of populations from the ethnic, linguistic or religious points of view are matters of internal jurisdiction of the

³⁵ Turkish officials were still reluctant to use the word 'Kurd'.

State ... In this respect, no one can disregard the imperative nature of A 2(7).

Supporting the draft resolution he said:

The action of the Security Council in regard to Iraq should be unbiased and purely humanitarian motivated. It should not create a precedent for political misuse in the future. Instead it should be regarded as a special case after the Gulf War.

The Yemeni representative, who voted Against, denounced the draft resolution:

We would have supported the present draft resolution if it had been confined to addressing humanitarian issues ... However the draft resolution now before the Council, although dealing with the humanitarian issues that face the Iraqi people, focuses on only one area and on one category of the Iraqi population. We object to the draft resolution as it attempts to politicise the humanitarian issue We wonder what State, big or small, has no internal problems; what State will not at some point in time encounter internal difficulties and experience transborder problems? In our opinion the text of the draft resolution is a first departure from the rule of maintaining a strict focus on the Council's responsibility under the Charter The Council is only competent to deal with threats to international peace and security and that this situation is internal ... We find this new world order ominous. We see a lack of balance We see no firm application of the law ... this may lead to a change in the rules which have contributed to stability over the past four decades.

The delegate from Zimbabwe, before voting Against, stated:

We recognise that a serious humanitarian situation has arisen as a result of these developments. However it is in our view essentially an internal matter, as defined in Paragraph [sic] 2(7) of the Charter. It is our view that addressing the situation in the manner suggested by the draft resolution would be

inconsistent with the clear parameters of the Council's competence as provided for in the Charter.

He then proposed that:

the Secretary-General should deal with the humanitarian crisis through the appropriate UN organs, not the Security Council.

China, before Abstaining, agreed that:

the Security Council should not consider or take action on questions concerning the internal affairs of any State. As for the international aspects involved in the question ... they should be settled through the appropriate channels.

Rodley points out that the Chinese delegate's language could have led to a negative vote.³⁶ This, from a permanent member, would have vetoed the draft resolution. The Chinese delegate in the debate justified his abstention on the grounds of unwillingness to intervene in the 'domestic jurisdiction' of Iraq. China had not offered this objection when it approved economic sanctions against Iraq in R 661. China had been prepared to endorse Chapter VII measures not amounting to the use of force and in clear cases of 'threats to international peace and security'. But it would not endorse criticism of a state for its alleged systematic abuse of human rights.

The fact that China abstained rather than voted against (a veto) suggests that China was prepared to tolerate, if not formally endorse, the limited action authorised in R 688, despite the possible violation of Iraq's domestic jurisdiction in a situation where the 'international' threat was debatable. China's acquiescence in this resolution has been widely attributed to a desire to signal cooperation with the US and the international community following the protests over the forcible suppression of dissent at Tienamen Square in 1989. Whatever the reason, China's statement and vote on 688 was consistent with the policy adopted during the earlier 'Gulf Crisis'

³⁶ Nigel S Rodley 'Collective Intervention to Protect Human Rights and Civilian Populations: the legal framework' in Nigel S Rodley (ed) To Loose The Bands of Wickedness: International Intervention in Defence of Human Rights (London: Brassey's, 1992) p 30.

resolutions. In the debate on R 678, in November 1990, the Chinese Foreign Minister, Qian Qichen, had explained that China deplored the Iraqi invasion as an act of aggression. It had voted in favour of the resolutions which had condemned Iraq and those which had put in place Chapter VII sanctions not amounting to the use of force. It was not prepared, however, to vote in favour of 'all necessary means' in 678 because it believed that economic sanctions and diplomacy were the best inducements for Iraq to withdraw from Kuwait.

The Chinese government holds that the relations between States should be based on the Five Principles of mutual respect for ... sovereignty and territorial integrity, mutual non-aggression, non interference in each others' internal affairs, equality ... and peaceful coexistence; and that disputes should be settled through dialogue and consultations....

This option [sanctions rather than the use of force] may take longer but the costs would be lower and the *sequelae* [sic] less serious. Once this war breaks out, all parties will suffer great losses... The reason why China voted in favour of the 10 earlier resolutions ... they are not in the domain of the use of force.³⁷

This suggests 'realpolitik' rather than ingratiation. In fact 'realpolitik' in China's foreign policy has been noticeable for many years. In a recent article Thomas J Christensen argues that China's interest on international humanitarianism is tactical:

although China has not actively opposed multilateral humanitarian efforts, the rationales for international missions ... are alien to the thinking of most Chinese analysts.

Christensen goes on to argue that China is vigilant with regard to multinational organisations, always suspecting that their decisions are fronts for hostile power-plays, especially by the USA.³⁸

³⁷ UN document S/PV.2963.

³⁸ 'Chinese Realpolitik' Foreign Affairs September/October 1996 p 38.

China's abstention on R 678 was the first occasion (since 1981) when it had broken ranks with an otherwise united P5 in a Security Council resolution. China has long defended the principle that the 'domestic jurisdiction' of states is central to their sovereignty and should not be breached, even in an otherwise good cause. Sally Morphet has argued that China's decision to withhold full support for Rs 678 and 688 arose out of an increasing awareness - and disapproval - of an perceived tendency of the Security Council to try to widen its 'international peace and security' mandate and thereby broaden the area in which the P5 could act on the basis of privileged status.³⁹ (Earlier alleged examples of such tendencies are the UK's unsuccessful bid to have action against the narcotics trade subsumed into 'security', the controversy over the sponsorship of election monitoring missions in states where no UN peacekeeping activity was in progress, and certain questions of finance.) China's vote on 678 also reflected a greater willingness on the part of China to adopt the posture of the NAM on structural issues concerning the United Nations. (China applied to join the NAM as a full member in late 1991. Its application was accepted the following year.)

China's consent to, if not endorsement of, action against Iraq in R 678 and 688 soon brought tangible rewards. In 1991 the US dropped its previous long-standing objections to China receiving additional World Bank loans for the development of its economy. The US had justified its objections by pointing to China's bad human rights record. In 1990-1 the World Bank loaned China \$1.5 bn, in 1992 the amount was \$2.5 bn. (The figure for 1989, the year of Tienamen, was \$0.5 bn).⁴⁰

Ecuador's representative, voting in favour of the draft resolution, emphasised the human rights issues involved, quoting the Preamble to the Charter:

³⁹ Sally Morphet 'The Influence of states and groups of states on and in the Security Council and the General Assembly, 1980-94' Review of International Studies (1995) 21 pp 435-462.)

⁴⁰ William R Feeney 'China and the Multilateral Economic Institutions' in Samuel S Kim (ed) China and the World: Chinese Foreign Relations in the Post-Cold War Era Third Edition (Boulder: Westview, 1994) pp 235-6.

'... draws attention to the member states' obligations "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person". Respect for the essence of the human being is a universal requirement which must be accepted and must be demanded... The situation is not internal; it is affecting the broader areas of neighboring states ... If it was purely internal then perhaps the General Assembly or ECOSOC⁴¹ under Chapter IX would be the appropriate organ, but the situation affects international peace and security.'

Cuba, whose delegate later voted Against, denounced the draft resolution in uncompromising terms:

'...the resolution violates the norm under A 2(7) ... the US had already violated the principle when it encouraged the Iraqi people to overthrow Saddam Hussein and through Bush's orders to the CIA to aid the rebel factions in Iraq ... it is inconsistent not to condemn the USA for these actions while simultaneously contemplating ... violation of Iraq's sovereignty ... the Security Council has no right. The General Assembly could look at the problem under Chapter IX, A 60, ... [Cuba] complains that such action is beyond the Security Council's mandate ... [it] turns the Organisation into a system dominated by an oligarchical group which attributes to itself powers that no one has given it and imposes its will on the entire organisation ... Mr Ahtisaari was despatched by the Security Council to ascertain the situation in Iraq. He reported listing the repair/replacement of infrastructure, communications transportation, energy required to help the humanitarian situation. It was contradictory for the Security Council to base such a resolution on humanitarian concern when it was, in actuality, perpetuating the conditions which aggravated the situation.

⁴¹ The UN's Economic and Social Council, on which 54 member-states are represented.

Following an earlier request from the Security Council⁴² the Secretary-General had sent Under Secretary-General Martti Ahtisaari to visit Iraq and Kuwait and report on humanitarian conditions in those countries. (Mr Ahtisaari had formerly been the Secretary-General's Special Representative in Namibia in 1978.) His plan for the decolonisation of the territory was subsequently implemented by UNTAG. He subsequently became president of Finland.⁴³ The visit took place between 10-27 March 1991. The despatch of the Ahtisaari mission was a sudden decision of the Secretary-General. Inside the UN Secretariat Sadruddin Aga Khan, who was about to move to the Gulf on a similar task, argued that the Ahtisaari mission duplicated his own task. On arrival in Iraq the authorities told Ahtisaari that he was forbidden to visit the Kurdish areas in the north.

France - a sponsor of the draft resolution - stated that the resolution:

concentrates on the humanitarian role of the UN. Violations of human rights such as those now being observed become a matter of international interest when they take on such proportions that they assume the dimensions of a crime against humanity. That is indeed what is happening in Iraq.

The delegate continued:

The demands made in the resolution regarding Iraq's treatment of its population are the minimum which the international community must make in order to live up to the commitments they entered into when they adhered to the Charter of the UN. They are the minimum reflection of the faith they have expressed in the equality of rights of men and women in all nations.

President Mitterand was later to claim that France had been the first state to declare that a 'right of humanitarian intervention' existed, and should be exercised to protect the minorities in northern Iraq.

⁴² The request came in Document S/22322. The report was Document S/22336.

⁴³ Interview with Mr Ahtisaari, Prague, 11 September 1996.

C'est la France qui a pris l'initiative de ce nouveau droit assez extraordinaire dans l'histoire du monde, qui est un sorte de droit d'ingérence en l'intérieur d'un pays, lorsqu'une partie de sa population est victime d'une persecution. Francois Mitterand affirme ainsi, dans son allocution du 14-7-91.⁴⁴

India's contribution to the debate - after it had abstained on the vote - emphasised the threat to regional peace and security, rather than the continuing civil strife in Iraq:

Our endeavour was to focus the attention of the Council on the aspect of the threat or likely threat to peace and stability in the region rather than on the factors which have created the present situation. We believe that the Council should have concentrated on the aspect of peace and security, which is its proper mandate under the Charter, and left other aspects to other, more appropriate agencies of the United Nations.

The important course of action was to:

demand that conditions be created to enable [the refugees] to return to their homes in safety and dignity.

The Council should not attempt:

to prescribe what should be done as that would impinge on the internal affairs of States.

India was arguing for the Council to restrict its purview - and its (implied) use of Chapter VII powers - to the international aspects of the crisis, not the questions of internal conditions inside a member-state. The remedy for humanitarian problems, it argued, was the consensual involvement of UN and other aid agencies, not forcible intervention. India's policy was consistent with a desire to spare Iraq further destruction and humiliation but was also consistent with its traditional aversion to legitimising intervention.

⁴⁴ M Bettati 'Un Droit d'Ingerence ?' 95 RGDIP p 640. Translation: It was France which, for the first time in the history of the world, took the initiative on this extraordinary new right. This is a sort of right of intervention in the interior of a country when one part of the population is suffering persecution. François Mitterand made this point in his speech on 14 July 1991.

Later that year in the debate leading to the adoption of R 713 - one of the first Security Council debates over the secessionist struggles in the former Yugoslavia - the Indian delegate would insist that the debate should begin only after a request from the Belgrade authorities - the original sovereign government - and that it should focus on the *international* consequences of the crisis in the region, not the humanitarian or security crisis - ie the *internal* situation - in the 'state'.

A formal request from the state concerned is an essential requirement in such cases before the Council can take up the matter..... we must not forget A 2(7).... Let us therefore note today in unmistakable terms that the Council's consideration of the matter relates not to Yugoslavia's internal situation ...but ... its implications for peace and security in the region.⁴⁵

Throughout the earlier Gulf Crisis India had consistently argued for the international community to act with moderation towards Iraq. This policy might have derived from India and Iraq's close cooperation in NAM matters, India's general support for the Palestinian cause and India's belief that Iraq's military strength - recently tested in the war with Iran - would prove superior to that of the coalition. Whereas this line led the Baharatiya Janata-led coalition of V P Singh to support Iraq in the later months of 1990 the incoming Chandra Shekar government was forced to take a more equivocal line. In early 1991 the financial crisis looming in India required IMF action. The government was anxious not to alienate the US in this regard. Accordingly, in the debate on 688, India's representative at the UN, Mr Gharekhan, continued to argue for moderate treatment for Iraq but offered no real resistance to the near-consensus view

⁴⁵ S/PV.3009.

that Iraq's repression of minorities was unacceptable.⁴⁶

Some of the other delegates who spoke in support of the draft resolution emphasised the humanitarian nature of the crisis and the abuse of human rights. Supporting the resolutions the US delegate stated:

It is not the role or the intention of the Security Council to interfere in the internal affairs of any country. However it is the Council's legitimate responsibility to respond to the concerns of Turkey and the Islamic Republic of Iran, concerns increasingly shared by the other neighbours of Iraq about the massive numbers of people fleeing ...

This is of course a special case which has arisen in the aftermath of the Gulf Crisis.

He then referred to the \$35m which the USA had already spent in relief aid and the further grant of \$10m which President Bush had just approved.

The Soviet delegate confirmed his country's respect for A 2(7) and stated that it applied to Iraq as well as to all other states. The Security Council should, nevertheless, address the security threat posed by the refugees. He supported the mandate in the draft resolution which referred to the Secretary-General's humanitarian efforts.

In voting in favour of R 688 the USSR continued its policy of cooperating with the US to restrain Iraq. Thus the USSR had voted with the US in all previous 'Gulf crisis' resolutions. At the time of 688, however, there was no indication that the next move would be an intervention into northern Iraq. When that intent became clear the Soviet leadership was quick to warn the UN not to authorise any violation of Iraq's sovereignty by military intervention on behalf of the Kurds.⁴⁷

⁴⁶ B Rajini and A Baloramiah 'India's Policy towards the Persian Gulf Region' Iranian Journal of International Affairs Vol IV No 3-4, Fall Winter 1992.

⁴⁷ See Page 225, below.

The consensus is that Soviets felt compelled to comply with the Western states' policy towards Iraq in 1991. The approaching political and economic crisis in the USSR - shown by the August 1991 coup against Gorbachev and the subsequent disintegration of the Soviet state later that year - made it impossible for the Soviets to create an independent policy towards Iraq.

The UK delegate, also supporting the resolution, reminded the Council that the treatment of South Africa in the past had established a precedent for the mass abuse of human rights to be considered as a legitimate issue for consideration - and if necessary, enforcement action - by the Council:

[Article 2(7)], an essential part of the Charter, does not apply to matters which, under the Charter, are not essentially domestic, and we have often seen human rights - for example in South Africa - defined in that category.... Thirdly there are Iraq's international obligations, under Article 3 of the Geneva Convention of 1949, to protect, in the case of internal armed conflicts, all innocent civilians from violence of all kinds to life and person.

The UK delegate also disclaimed any intention to create a Kurdistan: such an act would have contravened the Treaty of Lausanne, to which the UK was a party.⁴⁸ It was 'an intervention not to change borders but to save lives.'⁴⁹

Belgium accused Iraq of not complying with its international obligations of the most basic principles of humanitarian law and human rights. It also cited apparent violations of the Geneva Convention provisions.

⁴⁸ The Treaty of Lausanne (1923) is considered to be part of the Versailles Settlement. It followed the armistice after the Turkish War of Independence and largely resolved the borders of modern Turkey. The final decision - whereby the *vilayet* of Mosul became part of Iraq - was made by the League of Nations in 1925. See p 78, above.

⁴⁹ This was an apparent reference to the US' announcement of its air-drop plan, not a statement about the subsequent military intervention onto the territory of Iraq. The subsequent intervention had, at this stage, neither been proposed nor even considered at a high level.

The delegate from Germany stated his view that it was the right of the international community to call for respect for human rights.

The international community bears the responsibility for ensuring that the human rights of all Iraqis, of all ethnic and religious communities, including the Kurds, are observed.

The Irish delegate concluded his remarks by stating that all states must respect Iraqi sovereignty and that:

the resolution just adopted makes this clear. At the same time respect for the territorial integrity of Iraq does not take away from its obligations.

COMMENTARY

The text of the resolution and the opinions voiced in the debate represent two broad points of view. The common ground is a formal acceptance of the importance of human rights (however defined) and the preservation of international peace and security. All would support efforts to maintain stability in the international community.

For the first group - those who emphasise the rights of states and the 'domestic jurisdiction' - the erosion of sovereign rights guaranteed by A 2(7) of the Charter is a threat to national identity, even the state itself. Separatism for minorities in other states should not be encouraged; national unity should be protected by a principle of 'non-intervention'. The interests of justice would be served not so much by

the imposition of 'Western' political concepts but by more equitable distribution of global resources and the end of exploitation of poor by the rich, the South by the North.

For the second group - whose members emphasised the brutality of the Iraqi regime's repression - the interests of justice demand action to prevent the repression of minorities, if necessary by disinterested acts of intervention.

From the record of the debate and the voting on 688 it is clear where each participating state stood on these issues. The points of interest on the positions taken by the US and the USSR have already been considered (in Chapter 6). It also appears that there was no enthusiasm amongst Council members for these sensitive and divisive matters to be revisited, at least for a while. This would explain why, despite the events of the intervention (which was not foreseen at the time of the debate) there was no further formal consideration of this crisis in the Security Council. Similarly there appears to have been no enthusiasm to pursue the issues raised in the debate in the months which followed. After R 688 the Security Council would not debate 'intervention' until the Somalia crisis demanded attention, in January 1992.

Chapter 10, below, contains an assessment of the significance of R 688: a resolution which has been much debated. John Packer notes that 688 imposed a 'standard of performance' on Iraq in its demands that Iraq cease its attacks on civilians and allow access to the aid agencies. But R 688 did not impose an 'enforcement' provision, nor did it nominate an agency to impose that enforcement if required. As R 660 needed R 678 so R 688 required an 'executive' resolution (as well as an unequivocal and explicit finding under A 39, or reference to a previous A 39 finding) for it to have been a clear mandate for enforcement action. R 688 should therefore be discounted as a complete legal precedent for humanitarian intervention in future. Jost Delbruck also doubts the significance of the intervention to

protect the Kurds as a precedent. He points out that the absence of an A 39 finding in R 688, and the subsequent action of the Secretariat in obtaining Iraq's consent to the presence and operations of the aid agencies, the UN workers (and Guards) undermines the proposition that 688 was in all respects authoritative. The MOU signed by the Secretary-General's representative expressly recognised the organisation's 'respect for the territorial integrity, the political independence, the principle of non-intervention'.⁵⁰ If, after 688, the Secretary-General still believed he needed the consent of the Iraqis to carry out his mandate, then in his eyes, at least, 688 did not amount to an authorisation, and therefore cannot be a precedent, for a new 'right' of humanitarian intervention.⁵¹

Moving away from the strictly legal interpretation of R 688 to a statement on the Kurdish crisis as an indication of a *political* precedent, Jarat Chopra and Thomas Weiss argue that the safe havens operation signaled a new willingness in the international community to legitimise humanitarian intervention.⁵² To look beyond 1991 for a proof of this assertion, or indeed to forecast states' future responses to crises, is beyond the scope of this study. Clearly it will be in the future practice of states that the political as well as the legal status of intervention will be determined.

When considering the narrative of events in the crisis (below) it is important to note the timing of R 688. The Resolution came as the full dimensions of the humanitarian crisis became clear and press demands for intervention were reaching their height. But by 5 April there were no positive indications that an intervention using ground forces would take place, nor did 688 specifically address the legal or political

⁵⁰ For an account of how this MOU came to be signed see pp 217-219, below.

⁵¹ J Delbruck 'A Fresh Look at Humanitarian Intervention Under the Authority of the UN' 67 *Indiana LJ* p 885-6.

⁵² Jarat Chopra and Thomas G Weiss 'Sovereignty is no longer Sacrosanct; Codifying Humanitarian Intervention' *Ethics and International Affairs* Vol 6 1992 pp 100-1.

questions of such an intervention in the particular case.

CONCLUSIONS

The Conclusions of this chapter are:

- The text of R 688 and the majority vote in its favour amounted to a development of the Council's practice. Since 688 intra-state conflict may be identified as a 'potential threat to international peace and security' (and may therefore be a legitimate target for forcible intervention) under certain conditions. (This strengthened the precedent set in the anti-apartheid resolutions (221 and 417) which identified a threat to international peace and security arising from the abuse of human rights. The dissenting opinions expressed in the debate - as well as the abstentions and negative votes - indicated, however, that even the conditional endorsement of this opinion was barely tolerable to a number of member-states and was unacceptable to others.
- The Council's majority vote in favour of the need for some action - not amounting to forcible intervention - despite the 'domestic jurisdiction' provisions of the Charter may have been due to the special circumstances surrounding the events in Iraq in the early months of 1991.
- The text of R 688 neither mentioned A 39 nor did it specify that the action mandated should be taken under Chapter VII (enforcement). It therefore implied that action should be taken under Chapter VI (peaceful settlement of disputes). R 688 invoked the 'good offices' of the Secretary-General to investigate and take action through humanitarian agencies. Thus the Council preferred to pass the responsibility for handling the crisis to other UN agencies rather than to resolve the crisis under its own powers. (As it turned out the initiative passed to a 'coalition of the willing' who took enforcement action under the somewhat flimsy pretext that they were acting in a way 'consistent with 688'.)

- The fact that the Council did not resume discussion of the crisis after the military intervention took place suggests that Council members did not want to pursue the controversial matters raised, at that stage.
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RESOLUTION 688 (1991), 5 APRIL 1991

Adopted at the 2982nd meeting by 10 votes in favour, 3 voting against (Cuba, Yemen and Zimbabwe) China and India abstaining.

The Security Council,

Mindful of its duties and responsibilities under the Charter of the United Nations for the maintenance of international peace and security,

Recalling Article 2 paragraph 7 of the Charter of the United Nations

Gravely concerned by the repression of the Iraqi civilian population in many parts of Iraq, including most recently the Kurdish populated areas which led to a massive flow of refugees towards and across international frontiers and to cross border incursions, which threaten international peace and security in the region,

Deeply disturbed by the magnitude of the human suffering involved,

Taking note of the letters sent by the representatives of Turkey and France to the United Nations dated 2 April 1991 and 4 April 1991 respectively S/22435 and S/22442,

Taking note also of the letters sent by the Permanent Representative of the Islamic Republic of Iran to the United Nations dated 3 and 4 April 1991, respectively S/22436 and S/22447,

Reaffirming the commitment of all Member States to the sovereignty, territorial integrity and political independence of Iraq and of all States in the area,

Bearing in mind the Secretary-General's report of 20 March 1991 (S/22366),

- 1. Condemns the repression of the Iraqi civilian population in many parts of Iraq, most recently in the Kurdish populated areas, the consequences of which threaten international peace and security in the region;*
- 2. Demands that Iraq, as a contribution to removing the threat to international peace and security in the region, immediately end this repression and expresses the hope in the same context that an open dialogue will take place to ensure that the human and political rights of all Iraqi citizens are respected;*
- 3. Insists that Iraq allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq and to make available all necessary facilities for their operations;*
- 4. Requests the Secretary-General to pursue his humanitarian efforts in Iraq and to report forthwith if appropriate on the basis of a further mission to the region, on the plight of the Iraqi civilian population and in particular the Kurdish population, suffering from the repression in all its forms inflicted by the Iraqi authorities;*
- 5. Requests further the Secretary-General to use all the resources at his disposal, including those of the relevant United Nations agencies, to address urgently the critical needs of the refugees and displaced Iraqi population;*

6. *Appeals* to all Member States and to all humanitarian organizations to contribute to these humanitarian relief efforts;

7. *Demands* that Iraq cooperate with the Secretary-General to these ends;

8. *Decides* to remain seized of the matter.

CHAPTER 8

THE DECISION TO IMPOSE THE SAFE HAVENS

OUTLINE CHRONOLOGY OF EVENTS

24 Feb	Coalition land offensive begins
25 Feb	Iraq publicly orders its land forces in the KTO to begin withdrawing into Iraq
28 Feb	Coalition offensive action ceases
3 Mar	Cease fire signed at Safwan on the border of Kuwait and Iraq
5 Mar	First reports of fighting between dissident Iraqis (Kurds and others) and the Iraqi army in the north and south east
15 Mar	Presidents Bush and Mitterand meet on Martinique
21 Mar	High point of revolt in the north: main towns of Kirkuk, Irbil, Dohuk, Suleimaniyeh and Zakho under rebel control.
25 Mar	Iraqi army counter-attack in the north begins
28 Mar	Iraqi army regains control of main towns in the north. Flight of Displaced Persons (DPs) north and east begins
3 Apr	UN Security Council adopts R 687
5 Apr	UN Security Council adopts R 688
6 Apr	US forces in Germany alerted for humanitarian mission
7 Apr	President Özal states need for 'havens' inside Iraq Secretary of State Baker views DPs' plight in the mountains
8 Apr	EC summit in Luxembourg; Prime Minister Major proposes 'safe havens' inside Iraq First international military relief air-drops to DPs in mountains
10 Apr	President Bush continues to rule out military intervention by ground troops from Turkish bases and territorial waters
16 Apr	Field recce by DCINC EUCOM (McCarthy) and DCINC USAEUR (Shalikashvili) and a DART team from Washington
18 Apr	UN signs 'framework agreement' with regime for civilian relief operations inside Iraq
19 Apr	US Marines arrive on Turkish border near Zakho Coalition forces arrive in mountains and begin supervising distribution of relief to DPs Construction of tented camps at Zakho begins

27 Apr	First DPs arrive in tented camps UNHCR and NGOs assume responsibility for provision and distribution of all relief supplies
2-8 May	Coalition forces extend security zone to the east
5 May	Tented camps handed over to UNHCR
8 May	Last DESERT STORM coalition units depart southern border area
19 May	First deployment of UN Guards to Iraq
21 May	Coalition forces further extend security zone to include the (demilitarised) town of Dohuk High point of coalition troop numbers in Turkey and Iraq. First withdrawal of coalition units
23 May	Iraq gives formal consent to the deployment of UN Guards (annex to the 18 April agreement)
8 Jun	Gulf War Victory Parade in Washington(10th: New York)
27 Jun	First date set for completion of withdrawal from Northern Iraq (later extended)
4 Jul	Second date set for withdrawal
15 Jul	Coalition forces withdraw from northern Iraq

This chapter provides an account of the Revolt of the Kurds (in outline) followed by an account of the decision-making and events which led to the commitment of multinational air, then land, forces to the relief and protection operation.

The main themes of the account will be:

- the action of the DPs
- the decisions taken by the Turkish government
- the initial reaction of the Western states
- Western states' decision-making on the commitment of forces to an intervention operation and the significance of media pressure on those decisions
- the reaction of the UN Secretariat

The analysis of these events will throw light on the conduct of the main actors: the Kurdish leadership and the governments of Turkey, the US, the UK and France.

This study confirms many of the conclusions of earlier accounts of the crisis and the action taken to resolve it. But it also provides evidence and analysis of decision-making pressures which were not noted by previous authors. In Turkey and in the US leaders had even stronger reasons to oppose intervention than those described in earlier studies. The voices of public opinion and the international media - well described by other authors - was all the more significant as they overcame stronger official resistance than first thought.

THE INTERNATIONAL REACTION TO THE HUMANITARIAN CRISIS

By the end of March it became clear that the flight of so many terrified people would soon amount to a humanitarian disaster. The international media, especially the British Sunday papers on 31 March, predicted a crisis. Disregarding the first calls for international action to deal with the crisis, Presidents Mubarak and Assad met and warned that intervention would risk fragmenting Iraq. They said: 'What is happening in Iraq is an internal matter.'¹

The media continued to publish harrowing accounts of the Kurds' plight:

"Hundreds of thousands of Kurds are on the move, cramming their families and whatever they could carry into lorries, tractor-trailers, cars, taxis, and any other vehicles they could find"

said Jim Muir, a BBC correspondent, reporting from northern Iraq.² Another reporter recorded this scene:

In the bitter wind of the summit I saw a legless man being bumped along in a wheelchair; a woman, her

¹ Youssef M Ibrahim The New York Times 2 April 1991, p A4.

² Rupert Cornwell International Herald Tribune 1 April 1991.

face twisted in the agony of childbirth, crouching for shelter among the rocks; old women dressed only in the nighties and dressing gowns they had left in.³

The UN Security Council's main effort in the first days of April was the adoption of R 687, the Gulf War 'cease fire resolution'. After weeks of discussion in closed sessions⁴ of the Security Council, the resolution elaborated the cease-fire agreement reached by the opposing military commanders in the field.⁵ R 687, adopted on 3 April, confirmed the cease fire and imposed new controls on post-war Iraq. The British had succeeded in inserting the 'hard' language into the draft resolution to provide close supervision on Iraq's future conduct.⁶

On 2 April former prime minister Mrs Thatcher appeared on British TV having tea with a Kurdish refugee family in London. She spoke in favour of an international military effort to assist the Kurds.⁷ On 3 April President Bush was interviewed on TV during a golf game in Florida, stating that the US should avoid military involvement in factional fighting in Iraq. In Turkey the government refused journalists' and foreign NGOs' requests to go to the Iraqi border; none of their staff members was permitted to travel beyond Diyarbakir.⁸

³ The BBC's Tom Carver, quoted in Brown and Shukman p 180.

⁴ Closed sessions are properly called 'consultations of the whole' or 'informal consultations'.

⁵ The armistice terms agreed at Safwan on 3 March.

⁶ It was the was the British who persuaded the other Security Council members of the need for a boundary commission and a weapons inspection regime (UNSCOM) in Iraq. Source: Senior former UKMis official, interview with the author on 7 December 1993.

⁷ Only days before the Foreign and Commonwealth Office in London had been warning the public about the consequences of the Shia and Kurdish revolts being victorious in Iraq:

'We must never forget the terrible crimes committed by the fundamentalist regime of Ayatollah Khomeini when it came to power in Tehran. The Shias of Iraq revere the memory of Khomeini and almost certainly if a fundamentalist regime took over in Baghdad it would be as ruthless as that in Tehran was. Also there would be a Tehran-Baghdad axis of fundamentalism. The dangers of that do not bear thinking about.'

An official quoted in John Laffin The World In Conflict War Annual No 6 (London: Brassey's, 1994) p 132 Note 1.

It was later revealed that Mrs Thatcher had given John Major 'an earful' over the telephone on 3 April. George J Church 'The Course of Conscience' Time 15 April 1991 p 22.

In London on 4 April the government reacted to public alarm by announcing that it would contribute £20m in aid to the relief effort.

In the US the *New York Times*, in a front-page article on 4 April, set out the concerns of the Administration as follows. On the one hand the US saw the danger that intervention might fuel the hopes of Kurdish separatists and thus increase instability throughout the northern tier.⁹ The fragmentation of Iraq might have followed. There was also concern that a unilateral intervention onto the territory of a sovereign state might alienate important allies and set an unhelpful precedent. Finally there was the risk of deploying US ground forces into a 'quagmire'. On the other hand US officials recognised the inadequacy of the UN and other relief agencies in the face of a humanitarian crisis on such a huge scale, and in such inaccessible territory, and the risk that inaction would lead to the destabilisation of Turkey.¹⁰ Other writers¹¹ referred to the threat of 'fragmentation' in Iraq and increased instability in the 'northern tier'. Opportunities for Iran to exploit divisions in Iraq would have threatened the interests of the US and its allies in the region, particularly the many Sunni Arab rulers in the Gulf.

On 4 April President Bush and Prime Minister Major spoke by telephone. They discussed R 688 but there was no mention of the 'safe havens'.¹² On the same day the

⁸ Griffiths interview. From 2 April all hotel rooms on Diyarbakir were occupied and the hire rate for taxis had soared to £ 200 per day. He also revealed that his recommendation that STCF should take part in the imminent humanitarian operation was not accepted immediately. Many of his colleagues took the view that it would be unwise to get involved in what was evidently a military operation, and one which would take place in an unfamiliar country (STCF operates mainly in Africa). Others protested that STCF should not take part in emergency 'relief' - their organisation's expertise was in long-term 'development' projects.

⁹ The US Administration was unwilling to have any official contact with the Kurdish leadership during the war or during the revolt. As Freedman and Boren have noted 'only when the Kurds were refugees was the US prepared to assist them'. Freedman and Boren p 48.

¹⁰ Thomas L Friedman New York Times 4 April p 1.

¹¹ Jane M Davis 'Introduction' in Jane M Davis (ed.) Politics and International Relations in the Middle East: Continuity and Change (Aldershot: Edward Elgar Press, 1995.)

¹² Lawrence Freedman and Efraim Karsh The Gulf Conflict 1990-1991: Diplomacy and War in the New World Order (Princeton New Jersey, Princeton University Press, 1993) p 423.

EC presidency (Luxembourg) wrote to the UN Secretary-General (S/22443) 'to condemn the brutal repression.'

On 5 April the UN Security Council adopted R 688 from a draft prepared by France. Officials in New York attributed 688 to Madame Mitterand¹³; it was, apparently, her insistence¹⁴ that something should be done for the Kurds which drove the French government to act.¹⁵ Mme Mitterand's concern for the Kurds was by then well established. In May 1989, after the *Anfal* migration of Iraqi Kurds to Turkey, she had visited Diyarbakir to meet Kurdish leaders.¹⁶ In October of that year, in Paris, she had chaired a *France-Libertés* 'International Conference on the Kurds' which had discussed Kurdish rights.¹⁷ She went on to visit the US where she lobbied Mrs Barbara Bush and members of the US Administration on behalf of the Kurds. Claiborne Pell, the majority leader in the US Senate, had given his support.¹⁸ In France another leading supporter of the Kurdish cause was Bernard Kouchner, the French minister for Overseas Aid, and a co-founder of the NGO *Medicins Sans Frontières*.¹⁹

The Turkish press was aware of Mme Mitterand's concern for the Kurds:

¹³ Zurcher p 315.

¹⁴ UKMis official. Also, Dannreuther p 74.

¹⁵ The vehement French response was in contrast to France's conciliatory diplomacy between the adoption of R 678 and the start of the Gulf War. In January 1991, to the annoyance of the other Western coalition members, the French government sent the Vauzelle delegation to Baghdad to negotiate with the Iraqi regime. This time the French government led the international effort to condemn Iraq.

¹⁶ Nicole and Hugh Pope Turkey Unveiled: Atatürk and After (London: John Murray, 1997) p 265.

¹⁷ Seven Kurdish members of the Turkish parliament attended this conference. On their return to Turkey they were expelled from their party, the SDPP.

¹⁸ In late February Senator Pell invited an Iraqi Kurd delegation to call on him, at the US Senate, to discuss post-war conditions in Iraq and the likelihood of a Kurdish revolt. The meeting took place on 28 February, the day after the land war ended in Kuwait. Nevertheless the Administration refused to permit these Kurdish representatives to meet officials from the State Department or the Pentagon. Randal 'After Such Knowledge' p 95-6.

¹⁹ A recent study has examined the rationale of France's response to the crisis. It confirms Mme Mitterand's influence on decision-making and attributes her sympathy, in part, to the advice of Bernard Dorin. Dorin had been so shocked by reports of the *Anfal* that he had abandoned his diplomatic career in 1989 to become a full-time advocate for the Kurds. Jonathan C. Randal After Such Knowledge what Forgiveness? My Encounters with Kurdistan (New York: Farrar, Strauss & Giroux, 1997) Chapter 4.

Mme Mitterand for her part is yet again on her missionary tours designed to shed tears in the presence of Kurds and level accusations at Turkey.²⁰

At the Security Council meeting on 5 April, after less than 24 hours of discussion²¹, R 688 was adopted by a majority vote.²² Rodley notes the special political circumstances which led the Council to act quickly.²³ The international condemnation of Iraq following the invasion of Kuwait, the exertions of the Gulf War, the sense of responsibility felt by many, especially in the West, for the plight of the Kurds, the unease felt after the 'incomplete' victory of the coalition, the history of Iraqi repression of the Kurds at Halabja and before, the emergency created by the refugees in neighbouring states: all these recent events encouraged the Council to act decisively.

On the same day President Bush announced that the US would contribute relief supplies to the aid agencies preparing to operate in Turkey's border region. Between 5-10 April twenty-one plane-loads of supplies arrived in Turkey from abroad.²⁴ By 6 April the US, the UK and France had decided, but not announced, their intention to air-drop relief supplies to the DPs in the mountains.

On 6 April, in his adopted home town, Houston, Texas, President Bush attended the first of a succession of local Gulf War victory celebrations.²⁵ Meanwhile in

²⁰ Briefing 29 April 1991 'Turkey plays cautiously as the West seeks to rid itself of guilt.'

²¹ R 687 was under discussion for five weeks before it was adopted.

²² For the text of R 688, and a discussion of its significance, see Chapter 7, above.

²³ Rodley 'To Loose the Bands of Wickedness' p 10.

²⁴ Frances Williams The Independent 12 April 1991 p 10.

²⁵ These continued throughout the period of the Kurdish crisis, culminating in the Washington DC victory parade on 8 June and the New York City 'ticker-tape' parade on 10 June. The parades in June coincided with serious disagreements between the PROVIDE COMFORT coalition allies on the date for the withdrawal for land forces from northern Iraq. The US wanted an immediate withdrawal. The Europeans preferred the troops to remain, for a while longer.

Germany the US European Command (USEUCOM) alerted its Special Forces(SF) units to prepare to deploy to south-east Turkey, in a CSAR²⁶ role. USEUCOM also alerted a composite air force construction unit (later named PRIME BEEF) to prepare to deploy to improve facilities in the forward airfields in Turkey. USEUCOM then appointed Major General James L Jamerson USAF, the former commander of Operation PROVEN FORCE, to command the relief operation from Incirlik. Jamerson immediately flew to Turkey, arriving in Incirlik on 7th.²⁷

On 8 April the first relief flights parachuted supplies to the DPs in the mountains. The same day US, British and French military representatives met at HQ USEUCOM, Patch Barracks, Stuttgart to discuss the details of the air relief operation.

At this time (8-9 April) the first public proposals for an international military intervention in northern Iraq appeared in the press. The Administration's policy of non-intervention was already under attack in the US media. Some critics accused the DESERT STORM coalition leaders of encouraging an Iraqi revolt and then refusing to assist the rebels overthrow Saddam Hussein. One reporter compared the inaction of the White House to the deliberate non-intervention of Stalin and the Red Army during the Warsaw Uprising in August 1944.²⁸ Other writers advised caution.²⁹ In a later statement,

²⁶ Combat Search and Rescue.

²⁷ Jamerson's mission was to provide relief through airdrops. The forces assigned to him were USAF airlift, USN CH-53Es and US Army and USAF Special Forces (SF) detachments. The SF component was 10th Special Forces Group US Army and the 39th Special Operations Wing USAF - both commanded by Brigadier General Richard W Potter Jr, US Army. (General Potter had been the second-in-command of the failed US SF 'EAGLE CLAW' mission to rescue the US Embassy staff in Tehran in 1981.)

²⁸ 'America stands on the Vistula without even the excuses the Russians put forward.' AM Rosenthal (New York Times) quoted in International Herald Tribune 10 April 1991. See also: George J Church 'Keeping Hands Off' Time 8 April 1991, pp 10-13, and, as an example of hostile comment in the international press '*Es wird noch Asche sein*' (Only ashes will be left) Der Spiegel 8 April 1991 pp 168-176.

²⁹ Professor Shibley Telhami of Cornell University argued that US encouragement for the Iraqi Kurds would only end in disillusion and recriminations. The US:
'cannot shape the Iraqi political system. US involvement will only excite the Kurds enough to make their fight bloodier and they would be let down later - their lot for decades.'
'Stay out of Iraq's Civil War' New York Times 5 April 1991 p A 15.

replying to the charge that he would have abandoned the Kurds to Saddam's vengeance, President Bush said:

Do you think that the United States should bear guilt because of suggesting that the Iraqi people take matters into their own hands with the implication being given that the United States would be there to support them militarily? That was not true. We never said that.³⁰

In the UK Mrs Thatcher called for multinational military action to protect the Kurds.³¹ The government still resisted this appeal (and criticism in Parliament), however, citing the sovereignty of Iraq. John Major insisted that he had never encouraged the Kurdish uprising. He could not 'recall asking the Kurds to mount this particular operation'.³² He added:

What is happening in Iraq is disturbing and malignant. But it is also within the borders of Iraq and we have no international authority to interfere.³³

President Özal of Turkey was the first international figure to propose 'intervention' rather than 'aid'. He made his remarks on US TV on 7th. He said:

We have to get [the Kurds] better land under UN control and to put those people on Iraqi territory and take care of them.³⁴

³⁰ Bush news conference USMIA 16 April 1991. For an example of the statements he made during the Gulf War, calling for Saddam's overthrow, see International Herald Tribune 16 February 1991. See also James Mayall's judgement that it would have been 'better for all concerned' if Saddam had been overthrown by *coup d'état* at the end of the war. 'Nonintervention, self determination and the 'New World Order' International Affairs 67, 3, 1991 p 426.

³¹ John Bulloch and Harvey Morris No Friends But the Mountains: The Tragic History of the Kurds (London: Viking, Penguin, 1992) p 33.

³² Robert Fisk 'After Victory Comes Betrayal' The Independent 10 April 1991.

³³ Edward Mortimer 'Safe haven is not enough' The Financial Times 10 April 1991. John Major might have had in mind the harsh assessment of Air Chief Marshal Sir Patrick Hine (the UK-based commander of the British contingent in the Gulf War) who reportedly said after the crushing of the Kurdish and Shia revolts: 'The Shiites and the Kurds chanced their arm; they thought the Iraqis were weaker than they were - and got their come-uppance.' This was apparently stated in support of the opinion that coalition military support should not be given to the Kurds (or the Shia) because a successful intervention might have brought about the fragmentation of Iraq. This would have been, from the coalition point of view, highly undesirable. Brown and Shukman p 180.

³⁴ Donald Macintyre The Independent on Sunday 14 April 1991. Özal may have been thinking of another vulnerable group in Iraq, not just the Kurds. He would have been keen to protect the 2.5 million Turcoman

President Bush's reaction to the Özal speech³⁵ was to issue a statement:

When you have refugee problem of this enormous consequence [it] comes under the heading of UN business Now I would like to see that peacekeeping activated.³⁶

On 7 April Baker arrived in Turkey, en route to Israel.³⁷ In Ankara he called on President Özal, ostensibly to thank him for the part Turkey had played in the Gulf War.³⁸ The following day Baker visited the border area and witnessed the suffering of the Iraqi Kurdish DPs. Due to security officials' concern for his safety in the *mêlée* Baker spent only 7 minutes on the ground. Speaking to reporters at the scene he said:

[I have] witnessed the suffering and desperation of the Iraqi people [sic]³⁹, experiences of cruelty and human anguish that defy description....these people must be free from the threat of persecution and harassment...any threat of interference or actual interference with the international relief efforts should be dealt with by the United Nations...[But the US would not] go down the slippery slope of being sucked into a civil war.⁴⁰ We cannot police what goes on in Iraq and we cannot be the arbiters of who shall govern Iraq.⁴¹

population in northern Iraq from the consequences of government reprisals after the uprising. Cumhuriyet 12 and 23 January 1991.

³⁵ Nicola and Hugh Pope state that Ozal telephoned Bush and threatened that Turkey would invade northern Iraq to set up 'safe havens' if the international community failed to react. Turkey Unveiled: Atatürk and After (London: John Murray, 1997) p 230. This version of events is not supported by other sources.

³⁶ 'Bush looks to UN for protecting of Iraqis' The Times 9 April 1991.

³⁷ This was the second of Baker's seven visits to the region between March and November 1991. It was part of the US peace initiative designed to reconcile Israel and its neighbours. Its first achievement was the Madrid conference on 31 October. See p 137 above.

³⁸ Turkey had permitted the US to conduct Operation PROVEN FORCE, its 'northern front' in the air campaign of DESERT STORM, from Incirlik Air Force base, Turkey.

³⁹ At this stage US officials were still carefully referring to the DPs as 'Iraqis', rather than Kurds, to avoid giving offence to Turkey.

⁴⁰ Staff Dispatches International Herald Tribune 9 April 1991.

Baker telephoned the State Department in Washington, and the president, to alert them to the humanitarian crisis and the political problems it would bring.⁴²

At Diyarbakir James Baker and Turkish foreign minister Ahmet Alptemocin issued a joint statement calling for more international relief aid for the DPs. They said that the amount raised to date had been \$67m.⁴³

THE LUXEMBOURG SUMMIT

On 8 April British Prime Minister John Major proposed his 'safe haven'⁴⁴ solution⁴⁵ to the Luxembourg EC special summit.⁴⁶ The plan (originally: 'safe enclaves') was drawn up in the 24 hours preceding the summit. He said⁴⁷:

We cannot confine our efforts to mitigating this tragedy. We cannot just treat the wounds of the Iraqi people. We have to put a stop to the blood-letting of Saddam Hussein. If we cannot get rid of him we can at least provide some protection for the most vulnerable of the Iraqi people.⁴⁸

In a separate statement he referred to the impact of public opinion as a:

⁴¹ Brown and Shukman. They quote one of Baker's aides: 'We wrote the civil war off; but we can't write off the refugees' p 183. See also Bulloch and Morris p 33. See James A Baker III with Thomas DeFrank The Politics of Diplomacy (New York: Putnam, 1995) pp 431-435.

⁴² Ibid pp 431-435.

⁴³ The Times 9 April 1991.

⁴⁴ See Hella Pick 'Major Worked Out the Project on the Hoof' The Guardian 10 April 1991. John Major was said to have been annoyed by the inference in White House statements claiming credit for the 'safe havens' idea. In fact the earliest reference to safe havens in the context of the Kurds was in fact a radio broadcast made by Secretary of Defense Dick Cheney on 30 March. Freedman and Boren p 53.

⁴⁵ This proposal was made against Foreign Office advice. Nik Gowing Real-time Television Coverage of Armed Conflicts and Diplomatic Crises: Does it Pressure or Distort Foreign Policy Decisions Working Paper 94-1, John F Kennedy School of Government, June 1994 p 38.

⁴⁶ This summit had been called at the request of France to discuss the 'inadequate' response of the EC to the Gulf Crisis. In the words of Belgian Foreign Minister Marc Eysens, during the Gulf War: 'Europe has shown itself to be an economic giant, a political dwarf and a military worm.' Die Welt 25 January 1991.

⁴⁷ Martin Griffiths believes that Major was determined to 'move beyond' Mrs Thatcher's concern. He therefore proposed the 'safe havens' plan, partly in order to seize the domestic political initiative from his predecessor. Interview Wiston House 20.6.94.

⁴⁸ Quoted in Bulloch and Morris 'No Friends' p 35.

tidal wave of outrage that has swept the world as we have become aware of Saddam Hussein's cruelty to his own people.⁴⁹

This proposal was made without consultation with other ministers.⁵⁰ As he was speaking Foreign Office officials in London were briefing that the Kurds deserved no special treatment:

The Iraqis are exceptionally brutal and vengeful people, as are the Kurds, who have a record of violence and unpleasantness second to none.⁵¹

Britain's EC partners and the US Administration were not consulted in advance.⁵² During the summit, however, Douglas Hurd spoke to James Baker by telephone and informed him of the British proposal. Baker replied that the US would not consent to any intervention into Iraq's domestic affairs.⁵³ Stephen Wall, the prime minister's foreign affairs advisor tried to contact Brent Scowcroft, the US National Security Advisor, by telephone to inform him of the British plan. Failing to reach Scowcroft he left a message for him.⁵⁴ One of the prime minister's aides also telephoned the UK Permanent Representative at the UN, Sir David Hannay, who was due to lunch with the UN Secretary-General later that day.⁵⁵ Later that day John Major telephoned President Bush.

⁴⁹ Mark M Nelson 'EC Leaders Demand Kurds be Given Safe Haven in Iraq. Plan to Send Aid' Wall Street Journal 9 April 1991. A less complimentary version was that John Major, in the opinion of one of his senior advisors, 'was being panicked by the newspaper headlines'. Ben Brown and David Shukman All Necessary Means (London: BBC Books, 1991) p 183. For a further discussion of the impact of media reports on UK government decision-making see Nik Gowing 'The Media Dimension 1: TV and the Kurds' The World Today 47(7) pp 111-112.

⁵⁰ Brown and Shukman quote a 'No 10 official' as saying that Major took resolute action after being 'panicked by the media'. Brown and Shukman p 183.

⁵¹ Ibid.

⁵² Boris Johnson and George Jones 'Major calls for UN-protected Kurdish enclave' Daily Telegraph 9 April 1991 p 11.

⁵³ Freedman and Karsh The Gulf Conflict 1990-1991 p 423.

⁵⁴ Brown and Shukman p 185.

⁵⁵ Christopher Bellamy Best Witness: A Defence Correspondent's Gulf War 1990-1 (London: Brassey's) p 185.

Sir John Weston, the political director at the British Foreign Office, who had accompanied John Major to Luxembourg, was then instructed to approach Britain's other allies to obtain international support for the plan. Specifically Weston's task was to remedy what might have been an important oversight: the failure to consult the US before making the 'safe havens' announcement. At this time the Foreign Office in London was still referring to the 'havens' as 'a safe environment' for the Kurds.⁵⁶

At the end of the meeting Luxembourg's foreign minister Jacques Poos justified the decision to provide a sanctuary for the Kurds inside Iraq on the grounds that providing a refuge in a neighbouring country would create 'another Palestinian problem'.⁵⁷ The proposal was endorsed unanimously. The summit also pledged £104m as the EC's immediate contribution to the aid effort.⁵⁸

The 'safe havens' proposal was immediately attractive to the EC heads-of-government. First it was low cost/low risk.⁵⁹ Second it allowed the Europeans to seize the diplomatic initiative from the US.⁶⁰ Third it meant that the leaders could avoid an acrimonious discussion on the EC's diplomatic 'failures' during the Gulf crisis.⁶¹ For the French and Germans this display of unity was a promising forecast for CFSP⁶², scheduled

⁵⁶ Bulloch and Morris 'No Friends' p 35.

⁵⁷ Agence Europe 10 April 1991 p 6.

⁵⁸ David Gardner, David Buchan and Andrew Hill 'UK urges haven for Kurds' The Financial Times 9 April 1991. In June the EC allocated a further £21.5m. Germany made an additional contribution of £148m. John Eisenhammer 'German troops join relief effort' The Independent 24 April 1991.

⁵⁹ Furthermore the 'humanitarian' nature of the operation avoided many of the dilemmas on the use of force which had inhibited the EC states from contributing to the coalition effort in the Gulf crisis. Philippe Lemaitre 'Les Douze se mobilisent en faveur des Kurdes irakiens' Le Monde 10 April 1991.

⁶⁰ On this occasion the [EC] rose to it. Something had to be done and it did something. It acted swiftly, collectively and independently.' Peter Jenkins 'Major puts the UN on the spot' The Independent 10 April 1991.

⁶¹ The first 'failure' of the EC states was their lack of concerted diplomatic action during the early months of the Gulf crisis: the French and the Germans, in particular, had insisted on single nation 'missions' - the Brandt and the Vauzelle missions - to negotiate with the Iraqis. (Michael Knipe and Ian Murray 'Hurd protests to Bonn and Rome at Brandt Mission' The Times November 2, 1990.) The other 'failure' was the comparatively meagre military contribution to the operation.

⁶² Common Foreign and Security Policy.

for discussion in October.⁶³ President Mitterand called the initiative 'a major advance for the political dimension of the community.'⁶⁴ The leaders could now claim that the EC had taken the lead in international action to assist the Kurds. In the words of one EC official: 'The Kurds have saved the summit, so we had to save the Kurds'.⁶⁵

The EC summit also decided to send Jacques Santer (Prime Minister of Luxembourg and President of the Council of Ministers) and Jacques Delors (the President of the Commission) to Washington to urge the US Administration to begin a 'peace initiative' to attempt to resolve the long-standing disputes between Israel, the Palestinians and the neighbouring Arab states. They were also to urge that the EC should have a voice in such discussions. If not, the EC would 'not play its part in providing aid and security guarantees'.⁶⁶

The unity and optimism of the EC summit did not spill over into the WEU, however. At a WEU meeting, held in the margins of the EC conference on the same day, and in follow-up meetings on 9 and 10 April, there was no agreement that the WEU should coordinate member states' contributions to the resolution of the Kurdish crisis. In a clear reference to the UK and the Netherlands a WEU report later attributed this to 'certain countries who prefer to organise their participation in affording humanitarian assistance under their national flag'.⁶⁷

When he made his proposal John Major had in mind a UN 'blue beret' protection force for the 'havens'. The UN

⁶³ Laura Guazzaone 'Italy in the Gulf Crisis' in Nicole Gnesotto and John Roper (eds) The Western European Union and the Gulf Crisis (Paris: Institute for Security Studies, WEU, 1992) p 74.

⁶⁴ Quoted in Lawrence Freedman and Efraim Karsh The Gulf Crisis 1990-1991 (London and Boston: Faber and Faber, 1993) p 423 and David Usborne 'EC's war wounds start to heal' The Independent 10 April 1991.

⁶⁵ David Buchan and David Gardner 'EC leaders unite in response to Kurdish crisis' The Financial Times 10 April 1991.

⁶⁶ A senior EC official quoted in David Buchan and David Gardner Financial Times 10 April 1991.

⁶⁷ European Security and Threats outside Europe - the organisation of peace and security in the Mediterranean region and the Middle East WEU Document 1271, 13 May 1991, in WEU Assembly of WEU Proceedings (37th session Pt 1) p 248.

rejected the idea of a 'blue beret' operation, however. The UN had neither a mandate from the Security Council nor the consent of the Iraqis. There was, furthermore the question of cost: if the operation had been under the UN flag the UN would have had to fund the operation.⁶⁸

Press reports from London suggested that John Major took these actions because he saw the British public's reaction to the evidence of the DPs' distress⁶⁹ and also because it gave him a chance of achieving a foreign policy success. In the words of one report he saw the Kurdish crisis as an opportunity to refute the charge of 'dithering'⁷⁰ and 'to emerge from Mrs Thatcher's shadow'.⁷¹ By 8 April the UK had already delivered 6000 individual rations and 10 tons of plastic sheeting to Incirlik.⁷²

The US Administration's reaction to the Major plan was cool.⁷³ White House spokesman Marlin Fitzwater described the proposal as 'at least worthy of consideration' and having 'some merit in terms of a possible solution'.⁷⁴ This reaction may have been influenced by opinion polls in the US.⁷⁵

⁶⁸ In fact some recent UN peacekeeping operations have been funded by special contributions, not from the UN peacekeeping budget. But this funding method takes time to organise.

⁶⁹ Nik Gowing 'The Media Dimension: TV and the and Kurds' The World Today Vol No 7, June 1991 pp 111-112. Sir Anthony Parsons, the former UK Permanent Representative at the UN, agrees:

'Had it not been for the heart-rendering television pictures, there would have been no coalition intervention in Iraqi Kurdistan in 1991'

A Parsons From Cold War to Hot Peace: UN Interventions 1947-1994 (London: Michael Joseph, 1995) p 186.

⁷⁰ Boris Johnson and George Jones 'Major calls for UN-protected Kurdish enclave' Daily Telegraph 9 April 1991 p 11.

⁷¹ Alan Philips and Ben Rooney 'A Rough Path for the Thin Blue Line' Daily Telegraph 10 April 1991,

⁷² Bellamy p 150.

⁷³ The US Administration was apparently annoyed that John Major had made the 'safe havens' proposal without prior consultation with Washington. Sarah Helm 'US and UK argue over who saved the Kurds' The Independent 19 April 1991.

⁷⁴ Martin Fletcher and James Bone 'Major's enclave plan for Kurds runs into trouble' The Times 10 April 1991 p 1.

⁷⁵ A poll in the US before the announcement of the 'safe havens' proposal indicated 45% of respondents wanted aid to be sent to the DPs in Iraq but only half of these were in favour of the deployment of US forces into Iraq on a humanitarian mission. International Herald Tribune 6-7 April 1991.

It is likely that this reaction was caused by the Administration's fear that a new intervention might lead the American public to question the success of DESERT STORM, amid the on-going national celebrations. If the Gulf War had been such a success why was a further operation necessary? Had the president made a mistake in terminating the war before Saddam had been overthrown? Was the US justified in claiming its first real military victory since its defeat in Vietnam ? Such doubts, if left to fester, might produce a negative political reaction.⁷⁶

Another worry for the Administration was the impact of a further military intervention onto the territory of an Arab state to influence an internal conflict. Even the governments of states friendly to the US (such as Saudi Arabia, Bahrain and Oman) would question the legitimacy of such an act. Those same governments (and the Turkish leadership) would oppose a US action which although humanitarian in intent served the political interests of the Kurds. The US' new allies (such as Egypt and Syria) would certainly have objected to US intervention in such a controversial cause. These concerns probably explain the refusal of the Arab members of the Gulf War coalition to participate in PROVIDE COMFORT.) No state in the Middle East had (or has) any sympathy for the Kurdish cause.

President Bush's reluctance to approve intervention using US ground forces also had to take wider regional objectives into account. It is likely that he foresaw the negative impact of a further intervention on the planned Middle East peace process.

In April the Administration weighed these questions: how could it respond to growing public pressure and

⁷⁶ For example President Bush's last request to Congress for aid for Turkey, months before he left office in 1992 was for \$ 543 m as a straight gift. This sum was reduced to \$ 40 m during discussions with Congress and was offered as a loan.

also avoid a second - and perhaps more prolonged and 'political' - intervention inside Iraq, with all the risks involved? Once it had decided to intervene a second question arose: how could the intervention be made least damaging to US interests and diplomatic operations elsewhere in the region?

On 9 April USEUCOM expanded Major General Jamerson's mission. He was ordered to position US SF teams on the ground in the mountain passes to assist the reception of the air-delivered aid supplies.⁷⁷

As soon as the EC had approved the British 'safe havens' plan a debate began on the need for UN Security Council to provide a mandate for action enforcing R 688. The UN Secretary-General was cautious: he wanted to forestall criticism that he had accepted the US-UK solution too readily, instead of formulating a distinctive UN approach.⁷⁸ He was concerned that forcible intervention into Iraq without a Security Council mandate, would contravene international law. In all his dealings with Iraq Perez de Cuellar had striven to find solutions based on consent. Nine months later, in his final report as Secretary-General he struck a bolder note:

The principle of non-intervention with the essential domestic jurisdiction of States cannot be regarded as a protective barrier behind which human rights can be massively or systematically violated with impunity....

We need not impale ourselves on the dilemma between respect for sovereignty and the protection of human rights.... What is involved is not the right of intervention but the collective obligation of States to bring relief and redress in human rights emergencies.

But his successor, Boutros-Ghali returned to caution in 'Agenda for Peace'. He supported an 'even handed' approach to sovereignty and human rights, confident

⁷⁷ The SF component had previously been on stand-by for CSAR tasks.

that 'the independence of the UN' would allow it to satisfy both principles in any future crisis.

On 9 April, in accordance with the mandate in R 688, the Secretary-General appointed Prince Sadruddin Agha Khan to draw up a plan for humanitarian relief in Kuwait, Iraq and Iran.⁷⁹ The Secretary-General also sent Eric Suy, a former Belgian diplomat and UN official⁸⁰, on a fact-finding mission to Iraq. Suy told reporters that 'setting up a special zone on Iraqi territory would create a very dangerous precedent'.⁸¹ In an interview for Belgian TV he said:

Iraq's consent to a UN sanctuary would be a fundamental principle ... such a zone ... will likely not be attainable.⁸²

The case for carrying out international action based on consent, rather than compulsion, was strengthened by the armistice agreed by the Kurdish leadership and the Baath regime on 11 April. It could be argued that the coalition had no grounds for intervening forcibly where the parties had already reached some sort of agreement. Gen Shalikashvili recognised this. He used to say that agreement between the parties could undermine PROVIDE COMFORT. On one occasion he reminded his staff -

The Iraqis might turn to us and say "What are you turkeys (sic) doing in the north of our country ? The fighting is over and we are now at peace with the Kurds".⁸³

⁷⁸ UKMis official.

⁷⁹ Prince Sadruddin was to be the Executive Delegate for the UN Secretary-General for the UN Humanitarian Programme for Iraq, Kuwait and the Iraq/Iran and Iraq/Turkey Border Areas. See comment on the Ahtissari mission, p 169 above.

⁸⁰ Suy was the former head of the UN office in Geneva. He was to be the Secretary-General's Personal Representative, tasked with inquiring into the facts of the humanitarian crisis and in negotiations with Iraq.

⁸¹ Edward Lucas, Leonard Doyle and Sarah Helm The Independent 10 April.

⁸² James Bone The Times 10 April 1991.

⁸³ Remark made in the presence of the author in May 1991.

Turkey announced that there were several hundred thousand DPs waiting to cross the border from Iraq, in addition to the 300,000 Iraqi refugee Kurds already in the country. Media reports put the figure of refugees in Iran at 900,000. To follow its agreement with the Kurdish leadership the Iraqi regime extended, for a further week, its amnesty for those of its Kurdish citizens who had fled to the mountains or into neighbouring states.⁸⁴

In the UK Sir Anthony Parsons, a former British permanent representative at the UN, wrote that, ideally, a new resolution would be required before any act of intervention by ground forces. He added however that R 688 taken together with the earlier 'Gulf War' resolution (678) might be a sufficient mandate for intervention.⁸⁵

Western diplomats at the UN were reported as saying: it would be easier to get Security Council approval for UN humanitarian workers being sent into the Kurdish areas via Baghdad ... rather than a vote to send in a peacekeeping [sic] force.⁸⁶

Answering reporters' questions on the likelihood of a UN mandate for the 'safe havens' plan, the Secretary-General said:

I don't think it would be impossible, but it would be on Iraqi territory, which would raise problems of sovereignty. I don't know if we can impose a special area on Iraq. That would be complicated.

He added later:

We would wish in the first place to be in touch with the Iraqi authorities. We would need to see what their reaction would be to this sort of military presence on their territory. If there is to be a military presence under the aegis of the UN consent would have to be obtained from the

⁸⁴ Gerald Butt 'Saddam uses Western inactivity to make gains on two fronts' Daily Telegraph 12 April 1991 p 11.

⁸⁵ 'No barrier to protecting the Kurds' The Times 10 April 1991 p 14.

⁸⁶ James Bone The Times 10 April 1991.

Security Council. If the countries concerned do not require the UN flag, that is quite different.⁸⁷

The Secretariat's difficulty arose from two factors. First, the Security Council's mandate for action (R 688) was critical of Iraq's repression but failed to provide clear authority for the UN (or individual states) to take forcible action. Second it was clear that the Council was unlikely to authorise forcible action as R 688 had already stretched the available consensus to the limit.⁸⁸ The Secretariat already had an urgent and a wide-ranging relief task to complete in Iraq, a state where the regime was hostile to the UN. Now it was proposed that a forcible intervention should take place in the north of the country while, at the same time, the relief operation would proceed throughout Iraq.

Perez de Cuellar recognised that he would have the best chance of accomplishing his mandate if he dealt with the regime on the basis of consent, not compulsion. The MOU negotiated by his representatives (and later amended to incorporate an agreement on the 'guards') achieved this consent. The consent of the Iraqis came at the price of some concessions, however. The international community therefore spoke with two voices: one demanded Iraqis' compliance, the other sought their consent.⁸⁹ The multinational military forces would intervene forcibly claiming that their action was 'consistent with R 688' - to vehement Iraqi

⁸⁷ Bulloch and Morris p 36.

⁸⁸ See Chapter 7, above. Analysis of R 688 suggests that the Security Council had made as strong a statement on the situation in Iraq as the majority of members would support. A further statement or resolution would have overstretched the limited consensus which had approved 688. The potential objections of the USSR and China, as permanent members, could not be disregarded.

'China and the Soviet Union intimated that they would not support [a new and stronger] resolution. For them and the other members of the Security Council [R 688] represented the limits of their willingness overtly to support UN intervention in the internal affairs of another country.'

Roland Dannreuther The Gulf Conflict: A Political and Strategic Analysis Adelphi Paper 264, (London: Brassey's for the IISS, 1992) p 66.

China had abstained in the vote on R 688, as it had in all previous resolutions imposing Chapter VII measures involving the use of force. Michael Yahuda's analysis is that China was prepared to support the status quo in the Gulf Crisis - that is to support the restoration of the legitimate government to Kuwait - but not actively to promote 'democratic' government in Kuwait, nor endorse the punishment of Iraq, nor to support any (West-led) attempt to bring down the Iraqi regime. Source: interview at the LSE 9 June 1993.

⁸⁹ For a further discussion of the UN Secretariat's conduct in the crisis see pp 219, below.

protests⁹⁰ - while UN sponsored aid workers (and later guards) entered Iraq by permission of the regime, in accordance with the MOU.

At this stage the US Administration was prepared to assist the relief operation but not to commit ground forces to an intervention on Iraqi territory. On 9 April President Bush despatched a USAID DART⁹¹ team to Turkey, and with it \$ 869,000 for UNICEF for child immunisation and a further \$ 131,000 for the ICRC for water purification. He also sent \$ 275,000 to US Ambassador Morton I Abramovitz in Ankara⁹² as a discretionary fund for relief work.

On 10 April the Administration announced that White House spokesman Marlin Fitzwater had 'warned Iraq this weekend not to interfere with the humanitarian relief efforts under way in Iraq'.⁹³

On the same day the US Administration announced that coalition aircraft had already delivered 150 tonnes of relief supplies to people in need and that the US had allocated \$ 25m in aid.⁹⁴ It also gave details on the relief supplies now awaiting delivery, or awaiting transport into the operational area.⁹⁵ On the same day the US Administration told Iraq not to fly its helicopters north of the 36th parallel.⁹⁶ Iraq made it clear that it tolerated - under duress - the daily violation of its airspace by coalition aircraft.⁹⁷ On 11

⁹⁰ UN documents S/22459 (8 April), S/22513 (22 April), S/22531 (25 April) listed in Oppenheim 9th edition, p 443.

⁹¹ Disaster Aid Relief Team.

⁹² USIA 10 April.

⁹³ Dian Macdonald USIA 12 April 1991.

⁹⁴ USIA 10 April 1991.

⁹⁵ 130,000 blankets, 13,000 tents, 89,000 cases of MREs. Coalition sources had also acquired hundreds of thousands of blankets, thousands of tents and sleeping bags, with food for 300,000 people for 30 days.

⁹⁶ At the negotiations at Safwan the US had ordered the Iraqis to cease all military aircraft flights south of Baghdad. Christopher Bellamy Knights In White Armour (London: Hutchinson, 1996) p 97.

⁹⁷ Iraqi prime minister Sadoon Hamadi, speaking in Nicosia, said,

April the UNHCR appealed for \$ 400m for relief work in Turkey Iraq and Iran.⁹⁸

On 11th the EC delegation (Santer and Delors) met Administration leaders in Washington. The Americans repeated their reluctance to involve the US in intervention by ground forces. As an indication of the weakening US resolve on this point, however, some time at the meeting was taken up on the best word to be used to describe the 'havens'. The US preference was for 'sanctuary', rather than 'enclave'. On the same day as the meeting in Washington there were reports of new Iraqi attacks on Kurdish people in Irbil and Suleymanieh.⁹⁹

In Washington on 11 April the US Senate¹⁰⁰ passed Resolution 99 which spoke of 'a moral obligation to provide sustained humanitarian relief for the Iraqi refugees' and called upon the President of the United States

immediately to press for the [United Nations Security Council] to adopt effective measures to assist Iraqi refugees as set out in [R 688] ... and the demand in [R 688] that Iraq end its repression of the Iraqi civilian population.¹⁰¹

On 13 April President Bush stated :

[he did] not want a single soldier or airman shoved into a civil war that has been going on for

'The proposal to set up a zone under United Nations supervision inside Iraq to deal with the so-called refugee problem'.

⁹⁸ Frances Williams The Independent 12 April 1991 p 10.

⁹⁹ Rupert Cornwell and Christopher Bellamy 'Bush drowns enclaves in semantic sea' The Independent 12 April p 10.

¹⁰⁰ In 1988 the US Senate investigated the Iraqi CW attack on Halabja. As a result the Republican leader of the Senate, Claiborne Pell, introduced the 'Prevention of Genocide Bill'. Pell and Mme Mitterand had lobbied the Administration, unsuccessfully, on behalf of the Kurds. For earlier action in Congress on behalf of the Iraqi Kurds see p 120 above.

¹⁰¹ '... a moral obligation to provide sustained humanitarian relief for Iraqi refugees ... [and called on the President] immediately to press the United Nations Security Council to adopt effective measures ... as set forth in Resolution 688 and to enforce ... the demand that Iraq end its repression of the Iraqi civilian population.'

International Herald Tribune 7-8 April 1991

ages [but he would not] tolerate any interference in the massive international relief effort.¹⁰²

He continued:

I have said that the United States is not going to intervene militarily in Iraq's internal affairs and be drawn into a Vietnam-style quagmire ...¹⁰³

On the same day President Bush confirmed that the north-of-36°N 'air exclusion zone' was already in force. The cease fire agreement between the coalition and the Iraqis signed at the end of the Gulf War had imposed a condition that no Iraqi military aircraft would fly in Iraqi airspace until further notice. The 'air exclusion zones' relating to Iraqi airspace north of 36°N (to protect the Kurds) and south of 36°N (to protect the 'marsh Arabs') forbade the operation of all non-coalition aircraft (ie civil as well as military) in those areas. (Coalition forces did shoot down two Iraqi fixed wing combat aircraft over Iraq in March.) Later the coalition did make a controversial concession to Iraqi requests that their helicopters should be allowed to fly on their own humanitarian missions in the no-fly zones.

The coalition 'no fly zones' were imposed by the coalition but never endorsed by the Security Council. In later incidents the US was to justify its armed action against Iraqi aircraft, or missile batteries, as 'consistent with' to R 688. The UK justified the action it took as self-defence.¹⁰⁴

Answering questions on coalition policy on the intervention John Major denied that the entry of coalition ground forces was an 'intervention in

¹⁰² Speech at Maxwell Air Force Base 13 April 1991 USIA 15 April 1991.

¹⁰³ Bush News Conference 16 April, USIA 18 April 1991. This statement is consistent with remarks made by US Administration spokesmen when, during and immediately after, the Gulf War the coalition was accused of failing to 'finish the job' of overthrowing the Baath regime. In the same meeting the President denied that he committed forces to protect the Kurds out of guilt at having incited the revolt in March.

¹⁰⁴ Ian Johnstone Aftermath of the Gulf War: Assessment of UN Action (New York: Lynne Rienner Publishers, for the International Peace Academy, 1994) p 38.

Iraq's domestic affairs'¹⁰⁵: 'No. It is protection of the population from persecution'. This was an apparent reference to the duty of the international community to prevent genocide.¹⁰⁶ This theme was also to be found in the telegram the Iraqi Kurdish leader Massoud Barzani sent to the British prime minister on the same day: 'It is therefore the duty of every government in the world to support this initiative.'¹⁰⁷

A 8 of the UN Convention on the Prevention and Punishment of Genocide (1948) allows

competent organs of the United Nations to take such action under the Charter ... as they consider appropriate for the prevention and suppression of genocide.

Adelman notes that the Convention makes no provision for *unilateral* action, only action by the 'organs of the UN'. All the coalition states (and Iraq) are parties to the 1948 UN Convention on the Prevention of the Crime of Genocide. But, as Adelman has observed:

To have an obligation to protect without a right of intervention would be like insisting that a State was sovereign without giving it a the monopoly of the use of coercive power. Hence Major by claiming an obligation to protect implied his belief in a right of intervention, in this case if not generally.¹⁰⁸

Summing up the policies of the US, Russia and China at that stage in the crisis Bulloch and Morris assessed the situation as follows:

In Washington the post-war euphoria showed no signs of abating with the president and his

¹⁰⁵ The British response was dominated by a desire to see the authority of the UN effectively exercised and to see the European states act together in diplomacy and, if it became necessary, in military operations. Trevor Salmon p 240.

¹⁰⁶ Howard Adelman 'Humanitarian Intervention; The Case of the Kurds' IJ Refugee Law Vol 4 No 1 p 23.

¹⁰⁷ Michael Littlejohn Financial Times 10 April 1991.

¹⁰⁸ Adelman p 8 Note 10.

officials all apparently content to let the Europeans take the lead in providing aid to the Kurds and taking very little notice of John Major's idea of safe havens. It may not only have been euphoria and self interest: just as China was afraid of the idea of a UN-protected enclave in Tibet, and the Soviet Union in respect of the Baltic states, so the US may have had in mind the situation in the Israeli-occupied territories. For years Palestinian leaders had been pressing for the UN to send observers and troops to the West Bank and Gaza to protect their people against what they said was the brutality of the Israelis; the plan for the Kurds might have been seen as a trial run for what they had in mind.¹⁰⁹

On 15 April the Secretary-General received a letter from the Iranian government protesting about further incursions by Iraqi forces into its territory, near Gasr-e-Shirin.¹¹⁰

On 16 April, however, the US declared that it was prepared to deploy ground forces to assist the humanitarian operation.¹¹¹ President Bush made no reference to his previous opposition to US military involvement in the safe havens plan:

¹⁰⁹ Bulloch and Morris 'No Friends' p 37. Also Alan Philp and Ben Rooney 'A Rough Path for the Thin Blue Line' Daily Telegraph 10 April 1991.

¹¹⁰ The Iranians accused Iraq of sending a brigade to occupy an area 3 km² on Iranian territory. This was the latest in an exchange of accusations between Iraq and Iran both accusing the other of territorial violations. The UN received letters from Iraq (S/22371) on 21 March quoting a speech by Saddam Hussein (delivered on 16th) accusing Iraq of sending 'armed groups into Iran to undertake arson, murder and sabotage.' Iran denied this in a letter on 23rd (S/22379) and in turn accused Iraq of atrocities towards its own population: 'armed acts by government forces against innocent civilians as well as reported desecration of holy shrines and prominent religious personalities'.

On 3 April Iraq reported (S/22439) that there had been an Iranian incursion onto its territory and that Iraq had taken 50 'Iranian elements' prisoner.

¹¹¹ For an interesting analysis of the deeper reasons behind the US decision to commit land forces to PROVIDE COMFORT (and DESERT STORM) see Stephen John Steadman 'The New Interventionists' Foreign Affairs 72:1, pp 1-16. Steadman argues that the end of the Cold War brought about the reunification of the two wings of US public and political opinion on foreign policy: the 'Wilsonian liberals' (who emphasise self-determination and human rights for all) and the 'Cold War liberals' (who emphasised support for US interests and the need to confront challengers), who had been divided since the time of the Vietnam War.

'The two groups found common ground in their respect for human rights, their belief that the internal character of regimes has implications for international peace, and their support for international organisations to reform, [or] ... remove, rogue regimes.'

Both wings, argues Steadman, saw the Gulf War as a model for future collective security. Hence 'the new world order' interventions.

If we cannot get adequate food, clothing and shelter to the Kurds living in the mountains, then we must encourage them to move to an area in northern Iraq where the geography facilitates such a large-scale relief effort. I can well appreciate that many Kurds have good reason to fear for their safety if they return to Iraq. Let me reassure them that adequate security will be provided at these temporary sites by US, British and French air and ground forces. We'll have the air power around there if needed. We'll be able not only to protect our own people but the people we are setting out to protect. Iraq has underestimated the United States before. They shouldn't do so again.¹¹²

On the same day, 16 April, President Bush announced that the temporary sites would have to be (tented) transit camps in northern Iraq, in the foothills of the mountains where the DPs were seeking shelter. He said:

Consistent with [UNSC] Resolution 688¹¹³ and working closely with the [UN] and other international relief agencies and our European partners I have directed the US military to begin immediately to establish several encampments¹¹⁴ in northern Iraq.... adequate security will be provided at these temporary camps by US, British and French air and ground forces, again consistent with UN Security Council Resolution 688.... I want to underscore that all we are doing is motivated by humanitarian concern...We intend to turn over

¹¹² Bulloch and Morris 'No Friends' p 39.

¹¹³ Coalition political and military leaders used this 'consistent with' formula thereafter. But they also referred to an 'overwhelming humanitarian need' in the sense that a perceived moral duty might in this case overtake any deficiency in legal authority.

¹¹⁴ The term 'camp' caused coalition leaders and spokesmen constant difficulty. They were determined to avoid giving the impression that they were about to build 'refugee camps'. The term 'refugee camp' called to mind the permanent squalor of the Palestinian camps in Lebanon and the Gaza Strip. On the contrary the coalition wanted to stress the temporary nature of the accommodation, and to show a determination that these tented areas would provide high standard living conditions for the residents. The term 'enclave' was also seen as being misleading. Dick Cheney: 'And we are not interested in creating enclaves from which Kurds can attack the Iraqis. We are not interested in doing that.' Quoted in Prados p 30.

The UN also hesitated over the term 'enclave'. To international lawyers this expression suggested the establishment of a zone in which the sovereign rights of the state had been removed or set aside. See 'Kurds Plight under Discussion with Europeans' USIA, 18 April 1991.

the administration and security of these sites to the United Nations as soon as possible...¹¹⁵

President Bush also stated that the intervention would be temporary and last only as long as it took to turn the situation over to the UN. He confirmed that the US had obtained permission for stationing and overflights from Turkey (and overflight rights from Iran). Despite the positive public reaction to this decision some commentators continued to raise questions about 'quagmire' and 'fragmentation'.¹¹⁶

The Administration's change of heart over intervention has been attributed to pressure exerted by James Baker, Congressional leaders and the media.¹¹⁷ Baker's own account runs as follows :

My experience on that rugged hillside was not the only catalyst for a huge expansion for American and international relief to the Kurds that came to be known as Operation Provide Comfort: it also galvanised me into pressing for a new policy, announced by the President on April 16th, of establishing safe havens for the Kurds in northern Iraq - refugee camps secured by US forces and administered by the United Nations under the command of the then Lt Gen Shalikashvili, the deputy commander of US Army forces in Europe.¹¹⁸

General Colin Powell, the Chairman of the Joint Chiefs of Staff and Dick Cheney, the Secretary of Defense argued against further US involvement in Iraq. James

¹¹⁵ New York Times 17 April 1991, p A7. Also the Bush News Conference 16 April, USIA 18 April 1991. Answering questions afterwards President Bush replaced 'as soon as possible' with 'the sooner the better'.

¹¹⁶ Martin Fletcher The Times 10 April.

¹¹⁷ Martin Shaw 'The Kurds: TV's Finest Hour' New Statesman and Society 19 April 1996 pp 22-23.

¹¹⁸ Baker 'The Politics of Diplomacy' p 434.

Morton Kondracke, a former State Department official has written a more general account of Baker's *modus operandi* and priorities :

'Baker is interested in only two subjects--East-West relations and Arab-Israeli relations--and takes up others (such as Japan) only intermittently. One official sees Baker's operating style as "classic Machiavellian politics in a bureaucratic setting."

Morton Kondracke 'What foreign policy? [Part] 1' The New Republic 24 February 1992.

Baker, who had been the director of the Bush presidential campaign in 1987, and who was advising the president on strategy for the approaching 1992 campaign, apparently persuaded Bush to agree to US military participation in the 'safe havens' plan because of domestic political pressures.¹¹⁹ Randal attributes the change of heart to the 'telegenic' qualities of the Kurds¹²⁰ and the pressure felt through the Congress as a result of energetic lobbying by well-placed individuals like Peter Galbraith.¹²¹ Finally, despite Administration denials, it may be that leaders and officials were influenced, in part, by a sense of responsibility for the plight of the Kurds after the alleged US call for Iraqis to rebel after the Gulf War.

Also on 16 April General McCarthy USAF (DCINC EUCOM), Lt Gen Shalikashvili (DCINC USAEUR) and a DART team from OFTA, Washington, made a field reconnaissance of the border area.¹²² Following the reconnaissance the US made a request to the Turkish authorities for permission for the leading elements of the intervention force to land in Turkey.¹²³

THE FRAMEWORK AGREEMENT

On 18 April Sadruddin Aga Khan signed a 'framework' agreement with the regime in Baghdad. Sadruddin was anxious to obtain a legal basis for the international aid workers about to enter Iraq. The agreement - later formalised in an 'MOU' - signed at this meeting

¹¹⁹ Strobe Talbott 'Status Quo Ante; The United States and its Allies' in Joseph S Nye and Roger K Smith (eds.) After the Storm: Lessons from the Gulf War (New York: Madison Books, 1992) p 27.

¹²⁰ Randal quotes CBS reporter Alan Pizzey: 'The children are beautiful, the men fierce ... and the women proud and unveiled' p 60.

¹²¹ Galbraith was the co-author of the report of the US Senate's investigation into the Halabja massacre in 1988 (see p 120 above). He was in northern Iraq at the time of the Kurdish revolt, as a guest of Jalal Talanbani. Randal p 61-2.

¹²² PROVIDE COMFORT's DART resources were controlled from HQ EUCOM, Stuttgart, by DART's national director, Fred Cuny, a former US marine.

¹²³ Official approval, on behalf of the Turkish General Staff, for the entry of coalition forces in Turkey was given, it is said, by a middle ranking duty officer who had not cleared the decision with his superiors. It appears that the duty officer was unwilling to disturb his superiors as they enjoyed the traditional post-Ramadan public holiday. If this is correct it may explain in part the resentful manner of Turkish staff officers towards coalition officers throughout the crisis.

The TGS later confirmed that the authorisation for the presence of additional US and coalition personnel and equipment would last only 30 days, from 11 April. The term of the authorisation was later extended to a 6-month period, which was itself extended several times. Source: interview with Brigadier Robin Greenwood, Defence Attaché, British Embassy, Ankara, in May 1991. [Turkish military sources have refused to comment on this point. The subsequent fate of the duty officer is not known.]

established the basis on which the UN and its agencies dealt with the regime for the rest of the crisis:

- the UN would establish UN Humanitarian Centres (UNHUCs) in Zakho, Mosul, Basra, Irbil, Suleymaniye and Dohuk. In addition to the staff at the UNHUCs there would be 8 mobile relief teams.
- the Iraqis would contribute \$ 500,000 per month to the relief operation.¹²⁴
- all UN activities in Iraq would be financed in local currency, exchanged at the official rate.¹²⁵
- all NGOs and the UN would use Baghdad as the port of entry - there would be no travel into Iraq through the northern border.
- internal visa restrictions would apply to the UN officials and NGOs.
- the regional Red Crescent organisations would play a prominent part in relief work and, crucially for Baghdad, the Iraqi Red Crescent Society would in time become the conduit for all relief aid coming into the country.

The 'framework' agreement began with a statement in which Iraq rejected R 688. Sadruddin's signature suggested that the UN acknowledged this rejection. It also confirmed that the UN action was on the basis of 'consent' rather than by the authority of the Security Council. This agreement (and its subsequent 'UN Guards' amendment) would expire on 28 December 1991, if not renewed.

John Packer¹²⁶, a Canadian international lawyer working at that time for UNHCR and based in Geneva, states that the Suy-Sadruddin support staff personnel were on loan from the UN Development Agency: they were used to long-term consensual 'development' projects. They did not,

¹²⁴ The Iraqis' payments were erratic and never amounted to the sums due. Source: Packer interview, 25 June 1994.

¹²⁵ As the official rate was forty times more than the 'street' rate (1 dinar = \$ 3 rather than 13 dinars - \$ 1) the operation proved to be very expensive for the UN. UN officials often made as much as \$ 10,000 per month by exploiting the exchange rates on their allowances. Packer interview.

¹²⁶ Source for all details on the MOU: John Packer.

furthermore, have in their delegation legal advisors experienced in adversarial negotiations. The draft MOU was not submitted to the Office of the UN Legal Advisor in New York before it was signed. The Iraqi side, in contrast, fielded twelve legal experts in the negotiations.

Iraq's acceptance of the UN MOU came immediately after the US announced it was to participate in the safe havens intervention.¹²⁷ It may be that the Iraqis saw advantage in coming to terms with a UN-led humanitarian operation, based on consent, so they could more easily criticise the forcible intervention being prepared by the coalition.

The signing of this MOU complicated the legality of the coalition operation. If R 688 was authoritative, and if the coalition operation was acting in a way which was 'consistent' with it, it may have been compromised by the MOU which specified that it had been drawn up in accordance with a 'request from Iraq' and was in other respects clearly based on 'consent'. The MOU, furthermore, confirmed a role for the Iraqi military in the distribution of aid provided by the UN and the NGOs. It specified the need for 'personal' safety (rather than collective safety) of Iraqi citizens.¹²⁸

Later Perez de Cuellar's expressed his concern about the tension between the public expectations of the role of the UN in response to crises and the realities of international politics. In his report for the year 1991 he wrote:

The Secretary-General cannot be expected to use powers that are not vested in him and deploy resources that are not available. For large-scale field operations, the Secretariat needs clear mandates, with assured financing, in accordance with

¹²⁷ Dannreuther p 65.

¹²⁸ That is, as individuals, not as members of distinctive ethnic-religious groups. See Howard Adelman 'Humanitarian Intervention: 'The Case of the Kurds' International Journal of Refugee Law Vol 4 No 1 pp 20-22.

the provisions of the Charter and under established procedures.

Bulloch and Morris are critical of Secretary-General's caution:

The Secretary-General was, at least, consistent.

Faced with the Kurdish problem he seems to have done all he could to avoid UN involvement, dragging the organisation's heels in all possible ways, perhaps in retaliation for what many saw as the hijacking of the UN by the US in the Gulf War, perhaps anxious not to get involved in new difficulties in his last months in office.¹²⁹

The two operations for providing international relief for the victims of the crisis were therefore based on separate, and arguably contrary, legal foundations. The coalition military operation in the north was based on the implied Chapter VII authority of R 688 and took place despite its explicit rejection by the Iraqi regime. The UN relief plan for the whole of Iraq took place at the same time as the coalition operation, but was based on the MOU and therefore on the consent of the Iraqis. Ramsbotham and Woodhouse follow Garigue in proposing that the combination of 688 and MOU created a fundamental precedent: 'by linking the right to intervene on humanitarian grounds to the with the internal policies of nation states'. For these authors to postulate a synthesis between two actions which were in fact contradictory shows more ingenuity than sound legal analysis.¹³⁰

The two concurrent operations - based on different legal foundations - exemplified the central ambiguity over the question of intervention. It provided two points of departure for future crises. The first was the traditional 'only by consent' principle of humanitarian intervention. The second was the emerging

¹²⁹ Bulloch and Morris 'No Friends' p 36.

¹³⁰ P Garigue 'Intervention-sanction and *droit d'ingérence* in international humanitarian law' International Journal 48(4) pp 668-86.

concept of an 'international right and duty to intervene', a political-legal notion which has not yet been fully accepted by the international community.

CONCLUSIONS

The Conclusions of this Chapter are:

- The US was at first reluctant to intervene. It feared 'quagmire' and accusations of 'incomplete victory' in the Gulf War. It wanted to avoid destabilising the 'northern tier'. It may also have been reluctant to risk offending Arab states - by another intervention on to the territory of an Arab state - as it prepared to initiate the 'Middle East peace process'. But it decided to despatch forces nonetheless because of the pressure of domestic and world public opinion. It may be that leaders and officials were influenced, in part, by a sense of responsibility for the plight of the Kurds after the alleged US call for Iraqis to rebel after the Gulf War. The relative importance of all these factors in the decisions taken cannot be assessed at this stage.
- The Europeans decided to intervene as an opportunity to redress the perceived inadequacy of their own contribution to the Gulf crisis. They were also influenced by domestic public opinion. The 'safe havens' formula provided an attractive low-cost/low-risk solution to meet the public demand.
- The Turks first refused entry to the DPs because they wanted to prevent Iraqi Kurds becoming an economic burden and a stimulus for Turkish Kurd unrest inside Turkey. They cooperated with the intervention because the coalition forces would encourage the DPs to return to northern Iraq. They also wanted to encourage the 'Western' states to strengthen the strategic and economic ties with them for the future.
- The UN Secretariat decided to fulfil its mandate (688) to establish relief programmes with the consent of the Iraqi authorities, even though this was contrary to the posture taken by the coalition. The Secretariat made this decision because it wanted to provide aid to people throughout Iraq and in the *medium term*, i.e. for a longer period than the coalition forces were likely to stay. The UN guards plan was an attempt to mask the contradictions between the two approaches.

CHAPTER 9

THE INTERVENTION OPERATION

This chapter continues the account of the humanitarian crisis and the military intervention which followed. It describes the conduct of the relief operation. It also examines the decision-making over, and the execution of, the withdrawal of coalition land forces from northern Iraq.

The main themes of the account will be:

- The coalition leaders' preference for a short operation.
- The concerns of the Turks.
- Coalition forces' relations with the aid agencies.
- The reluctance of the DPs to return home.
- The possibility of an Iraqi attack on the coalition forces in the security zone.
- The UN guards plan.
- Decision-making on the timing of the troops' withdrawal from northern Iraq.
- The post-withdrawal arrangements, including the role of the 'residual force'.

AID IN THE MOUNTAINS

By the time of the first airdrops (8 April) the crowds of DPs at the Turkish border were concentrated in 9 mountain passes in barren terrain, without supplies and in night-time conditions of intense cold. At the outset the passes contained the following estimated populations of DPs:

<u>Location</u>	<u>mid April</u>
Isikveren & Kayadabi	80,000
Yekmal	80,000
Umzulu	50,000
Cucura	115,000
Narli Bridge	29,500
Semdinli & Yesilova	22,500

PROVIDE
COMFORT

TURKEY

SYRIA

IRAQ

SINAT
KAYADIBI
YEKMAL
CUKURKA
ISIKVEREN
UZUMLU
PIRINCEKEN
YESILOVA

- 43 SEPARATE LOCATIONS
- 8 MAJOR CAMP SITES

Aoma Kopru 30,000

Pirinciken 8,000

Total: 413,000 plus 100,000 scattered in the mountains.

Turkey refused to permit such numbers of Kurds to cross into and settle in Turkey, even temporarily. So the task facing the PROVIDE COMFORT coalition was to bring relief to the DPs in the mountains and then assist them to return to their towns and villages in northern Iraq in safety.

The first priority was the delivery of food and other necessities to the people in the mountains. Supplies loaded on pallets were dropped by parachute from transport aircraft. A fleet of 50 C-130 aircraft provided by the US, the UK, France, Italy, Belgium and Germany carried out this task. German military aircraft operated in Turkish and Iranian airspace only, they did not fly over northern Iraq. In all other respects they cooperated with PROVIDE COMFORT. (Germany was not a formal coalition partner.)

Military air operations from Incirlik began on 8 April. These were aid-delivery and escort flights, plus Special Forces' CSAR operations. Fighter aircraft (A-10A THUNDERBOLT II and F-15 EAGLE) escorted the transport aircraft. Although the assessed risk of attack from Iraqi air defence forces was low precautions were still required. When, as often occurred, the cloud base was close to the altitude of the mountain peaks the fighters assisted the transports by finding gaps in the clouds. The larger aircraft used the gaps to identify their drop-zones.¹

Other combat aircraft formed force packages in support of the air-delivery operation. Electronic Warfare (EW) support required a variety of systems. These were EF-111A SPARK VARK and EC-130 COMPASS CALL (jammers), F-4G WILD WEASELS (radar suppression and attack). Airborne surveillance assets coordinating the coalition air

¹ Christopher Bellamy Expert Witness: A Defence Correspondent's Gulf War 1990-91 (London: Brassey's, 1993) p 153.

effort included RC-135W RIVET JOINT (reporting of enemy air defence activity on the ground) and EC-3 SENTRY AWACS (airborne early warning of threats in the air).

To provide additional accommodation for personnel at Incirlik and the airstrips at Diyarbakir and Batman closer to the border, military engineers constructed tent cities beside the runways. This activity was known as Operation PRIME BEEF. As soon as the tent city at Diyarbakir was built the Turkish military authorities fenced it off, using barbed wire. This was not a measure designed to protect the foreign troops so much as a measure to restrict their movements on-base and to prevent them from leaving the base. Moreover the Turks continued to use the air gunnery range situated less than 100 meters from the tent city sleeping area. With the noise of the firing, and the more distant noise of coalition aircraft landing and taking off, the air and ground crews involved in the round-the-clock aid delivery flying operations found it difficult to sleep by day. Bellamy recorded the following scene at Diyarbakir:

On the airfield a tented town was springing up which reminded me of scenes from *Henry V*. Brown American and British olive-green tents mushroomed across the airfield. The American camp was still in some disorder, Half a mile on, the British camp had a Union Flag flying ... The following day the Union Flag had gone. The Turks, very particular about their sovereignty, had told them to take it down.²

The airdrops successfully delivered food and clothing to some of the DPs. But the delivery of supplies by parachute was haphazard: many of the two-ton pallets fell onto rocky areas inaccessible to the DPs, others fell onto the people themselves, causing injury.

Flying 3,500 feet above the peaks the first drops from the transport aircraft landed amongst the DPs. Later the aircraft released their parachute loads so as to hit designated drop-zones (DZ)

² Ibid p 155.

twenty minutes walk from the centres of population in the valleys.³

Coalition commanders therefore decided to deploy troops in the passes, amongst the DPs. The mission of these units was to coordinate the air-drops and organise the DPs to ensure a fair distribution of supplies. Soldiers were also able to assist with first aid. On 9 April the US 10th Special Forces Group (two battalions) received the order to deploy into the mountain passes. On 16 April the first SF arrived on site, at Isikveren. In due course these units established themselves in all the passes occupied by the DPs.

US SF battalions operate in 12-man 'A-teams', with 18 such teams in a battalion. The 10th SF Group - of which one battalion was normally stationed at Bad Tolz, Germany and the other two battalions at Fort Devons, Massachusetts - was augmented for PROVIDE COMFORT by medics and linguists from the Army National Guard's 20th SF Group based in the US. The 10th SF Group personnel were joined - on 24 April - by the Winter Warfare Cadre of 40 Commando RM.⁴

Iraq condemned the airdrops as a violation of its sovereignty. On 8 April the Iraqi Permanent Representative at the UN wrote to the Secretary-General (S/22460) protesting that R 688 had followed R 687 in condemning Iraq: 'once again, in the course of 48 hours, the Security Council has seen fit to adopt another tendentious and biased resolution against Iraq'. Foreign Minister Ahmet Hussein al-Khodair told the Secretary-General that the relief operation 'proves the evil intentions of the US and the British towards Iraq'.⁵ The Iraqi prime minister Sadoon Hamadi promised that Iraq would resist with 'all its means'.⁶ On 21 April the Iraqis informed the UN that 'foreign

³ Ibid p 151.

⁴ See pp 229-230, below.

⁵ 'Aid Teams Struggle to Get Aid to Kurds' The Times 9 April 1991.

⁶ Washington Post 18 April 1991. Hammadi, a Shia, was the chief casualty of the Baath Party's 10th Congress in September 1991. He was replaced by another Shia, Mohammed Hamza Zubaydi.

forces' had entered Iraq illegally. There was also a statement from Soviet Foreign minister Vitaly Churkin that the imposition of the 'haven' inside Iraq without the consent of the government was an 'undesirable precedent'. As the operation proceeded, however, the Soviet government ceased its critical comments.⁷

IRAN

The Iranians excluded the international media from their border with Turkey. There were 1.5m refugees entering Iran (compared with the 500,000 DPs on the Turkish-Iraqi border.) These refugees were concentrated in camps set up in Western Azerbaijan province and the area around Bakhtara. According to Iranian government reports to the UN (S/22447) by 4 April 110,000 Iraqis refugees had crossed into Iran and a further 500,000 were expected to cross in the next few days. There was a queue of people and vehicles at the border stretching back 60 Km into Iraq. On 8 April Iran updated its report (S/22463) giving the total of Iraqi refugees in Iran as 771,750. On 11 April a further Iranian report (S/22482) gave the total as 900,000. By 12 June the total number of Iraqi refugees in Iran was given as 539,000.⁸ The Iranians were later to complain that their efforts to alleviate the suffering of DPs from Iraq received little publicity, and minimal financial aid, from the West. On 17 May 1991 UNHCR gave the following figures for aid: \$ 128.9m to Iran, \$ 248m to Turkey (including \$ 57m plus \$ 140m DoD contributions plus \$ 31.6m from the Food for Peace programme.⁹)

The Iranians and the Turks had been cooperating quietly ever since Iraq's invasion of Kuwait. Their cooperation was further developed, immediately after the Gulf War, when Egypt, Syria and the six GCC states excluded Turkey and Iran from their collective consultations over security in the region. Another

⁷ Entessar p 154.

⁸ Sadruddin Agha Khan's 'Updated Appeal' sent to the Secretary-General and presented to the donor nations at Geneva on 12 June.

⁹ Quoted in Sheri Laizer Martyrs, Traitors and Patriots: Kurdistan after the Gulf War (London: Zed Books, 1996) p 25.

unifying factor was concern over Kurdish issues. Both states were adamant that Iraq's integrity had to be upheld; fragmentation would assist the cause of Kurdish nationalism and would destabilise the region. President Rafsanjani visited Turkey 29 April-2 May and signed a pipeline agreement. His visit was praised in Turkish government communiqués, even though he refused to pay his respects at the Atatürk mausoleum. [All official visitors to Turkey are normally expected to lay a wreath at this memorial.]

TURKEY

The Turks allowed the international media to view the scene at the border. Because of this access the media concentrated on the scene at the Turkish border even though there were many more DPs at the Iranian border. But the reports' emphasis was on Turkey's refusal to admit the DPs into Turkey: accusations of 'an inadequate response from Turkey'¹⁰ followed. Even after the Turkish authorities reversed their earlier decision and allowed the fugitives to cross into the immediate border area media reports were still largely critical of the conduct of Turkish troops and officials.¹¹ Attempts were made to put the Turkish government case. Bellamy reports an interview given by Hayri Koziakoglu, the Turkish super-governor of the south-east region, at Diyarbakir on 15 April. Koziakoglu insisted that the Turks were treating the 'persons seeking asylum' humanely and drew attention to Turkey's record in providing shelter for many other refugee groups. He cited the presence of the recently-arrived Bulgarian and Romanian refugees in Turkey, the 300,000 Iranians as well as the 'Iraqis' then receiving aid from Turkish agencies on the border. Bellamy and his fellow-journalists were then taken to Silopi to see the camp where 30,000 of the 300,000 Iraqi Kurds who had fled to Turkey in 1988 were still accommodated.¹² (Koziakoglu was

¹⁰ Briefing 6 May 1991 'Realism proves the keynote for Rafsanjani's visit'.

¹¹ Leonard Doyle The Independent 4 May 1991.

¹² Bellamy p 155-6.

replaced later that year by Necati Cetinkaya¹³, the governor of Konya.)

Following reports critical of the Turks' conduct towards the DPs Robert Fisk of *The Independent* and all other *Independent* journalists were ordered to leave Turkey.¹⁴ Robert Fox of *The Daily Telegraph* was also expelled because he was mistaken for Fisk.¹⁵ The British Government later denied the truth of Fisk's report. These criticisms were relayed to the Turkish public through their own media.¹⁶ Media reports told of Turkish troops' brutal conduct towards the DPs and pillaging supplies intended for them. A leading Turkish newspaper commented:

Countries which have not offered shelter to even one displaced Iraqi [sic] are now slandering Turkey and the Turkish people. What is most regrettable is that the accusations come from countries friendly to Turkey. May God protect us from such friends ...¹⁷

Turks also objected to the alleged 'subliminal' bias of US media news reports: the publication of maps and TV graphics showing a region called 'Kurdistan' spanning the border areas of Turkey, Iraq and Iran. Turkey accused Iraq, furthermore, of instigating the flight of Iraqi Kurds so that it would be rid of an unwanted minority.¹⁸

Later, on 1 May, a confrontation between British troops and a Turkish official caused further Turkish protests.¹⁹ *The Guardian* described an incident when British Royal Marines supervising a kitchen supplying DPs in a

¹³ A close colleague of the central figure coordinating the counter-terrorist campaign, Ünal Erkan. Erkan is, like Koziacoglu a former MIT officer but with reputed associations with the ultra-Right 'Grey Wolves' death-squads. Laizer *Martyrs* p 75.

¹⁴ 'Turkish Troops Steal Food and Blankets from Refugees' *Independent* 30 April 1991.

¹⁵ Bellamy p 158.

¹⁶ Bulloch and Morris 'No Friends' p 31.

¹⁷ Phil Reeves *The Independent* 16 April 1991.

¹⁸ Clyde Haberman *The New York Times* 12 April 1991.

¹⁹ 'Ankara Fed Up' *Turkish Daily News* 4-5 May 1991. 'Relief Delayed Amid Turkish Resentment' *The Guardian* 4 May 1991.

mountain valley 'manhandled' the deputy provincial governor who was inspecting conditions there. The British said the official had not identified himself.

The Turkish press exploded. A normally pro-western correspondent, Haluk Sahin, writing in *Gunes*:

it was Britain which had sought to divide the Middle East and [was] thus the root of all evil in the region, that it was London which had always kept the Kurdish issue on the agenda, that the architect of the Treaty of Sevres was none other than the UK ... and that the strongest criticisms and claims as regards the treatment of refugees had emerged in the British press.'

[This was the view of a Western-orientated columnist. The terms used in the popular dailies, *Turkiye* and *Zaman* were more severe.²⁰] Eventually the row subsided but bad feelings remained on both sides. Much later, when the coalition forces prepared to withdraw from northern Iraq, the Turkish press reported British troops' disparaging remarks about the quality of Turkish forces. These reports were publicised in the Turkish press.²¹

The sensitivity of the Turkish authorities over media criticism further hindered the distribution of relief aid. Turkish officials reacted by ordering Customs officials to examine relief stores arriving in Turkey. When PROVIDE COMFORT's ground combat forces began to arrive in Iraq, the incoming military equipment was examined with equal care.²² The coalition forces were required to submit multiple inventories, with each item identified by serial number. With a force of 22,000 men with all their military equipment this was a daunting task, made worse by the requirement that all who had entered Turkey in or with a vehicle had to exit in, or with, the same vehicle at the end of the operation. This was to allow Turkish Customs to

²⁰ Briefing 6 May 1991 'Semdinli row highlights doubts over foreign troops'.

²¹ Briefing 8 July 1991 'Poised Hammer plan meets sceptical public reaction'.

²² This problem was most acute at the ports of Mersin and Iskanderun and at the airstrip at Diyarbakir. See John Murray Brown The Independent 10 April 1991.

check that 'no equipment had been left behind'. Restrictions on air movements have been described in Chapter 8. The actions taken by officials can be attributed, in part, to the central and provincial authorities' unwillingness to compromise when faced with unusual situations. The tradition of public service in Turkey is one of rigid obedience, not flexibility. The coalition military forces and the aid agencies, intent on the humanitarian task, could not understand the officials' desire to follow regulations. They did not appreciate the Turks' 'sovereignty' concerns.

The Turks insisted on negotiating a new, and more restrictive, MOU in respect of the additional US, and non-US personnel, present for the duration of PROVIDE COMFORT. By insisting on a new MOU the government showed its own people that it was exercising Turkish sovereignty. In the event the new MOU was never signed. PROVIDE COMFORT came to an end before the negotiations were concluded.

THE OPERATION

The airdrop operation built up quickly. By 23 April 875 airdrops had taken place and a total of 5,915 tonnes of supplies had been delivered.²³ By 26 April US aid amounted to \$ 500m.²⁴

International aid agencies played a major part in relieving the crisis, providing most of the 600 tonnes (average) of supplies delivered by air per day in the period 19 April - 5 May. When the coalition ground forces moved into northern Iraq the aid agencies immediately followed. Although the 500 aid agencies present were making a great contribution they were not willing to coordinate their efforts, despite UNHCR officials requests. They valued their independence and needed to publicise their own achievements to the media to maintain donations from the public. Furthermore,

²³ Freedman and Boren p 51.

²⁴ Sandra Charles, Director Near East and South Asia Affairs, NSC. Reported by USIA 29 April 1991.

awkward relations between the military and the aid agencies caused concern. Gen Shalikashvili attributed this to mutual misperceptions.²⁵ With the arrival of the US Army Civil Affairs units in May, however, relations between the military and the aid agencies improved quickly.²⁶

By the end of the operation some aid workers were prepared to praise the military for their contribution. Ronald Roome (CARE):

What was incredible to me was how the military set up all the detailed and complicated systems at such speed and with so little experience [of emergency aid operations].²⁷

The first method of delivering relief supplies to the people in the mountains was by parachute air-drop. When the SF teams were in place in the mountains it became possible to use helicopters and to make up consignments according to need, not just in 'standard loads'.²⁸ Locally-purchased bulk food²⁹, cooking utensils and firewood, shovels (for burying the dead), specialist medical supplies and materials for building latrines replaced loads of MREs and plastic sheeting.

The limited payload of the helicopters made these air-delivery methods expensive. Coalition logisticians wanted to replace both methods of air delivery with deliveries by truck as soon as possible. As soon as the SF teams established secure storage facilities in the mountain passes it became possible to deliver bulk food by truck and then break it down into family ration allotments *in situ*. Due to international sanctions against Iraq Turkey's large national fleet of trucks was

²⁵ Source : a succession of interviews with the author throughout the operation.

²⁶ UNHCR's problem in coordinating the work of many aid agencies was repeated in Bosnia. As a result the UN established its Department of Humanitarian Affairs (DHA) in April 1992, specifically as a coordinator of relief efforts. (The DHA has been faced, in its turn, with the reluctance of the aid agencies to submit to any form of coordination.)

²⁷ Bolger p 258.

²⁸ Helicopters delivered supplies from Diyarbakir, and with a forward refuelling bases at Silopi and Yuksekova (both in Turkey). These were UH-60 BLACKHAWK, CH-53 SEA STALLION, CH-46E FROG, CH-47 CHINOOK and SUPER-PUMA helicopters from the US, the UK, Italy and France.

underemployed.³⁰ The aid agencies hired trucks with drivers to transport loads from central or western Anatolia³¹ to the border region for US\$ 1000 for the round trip. By 25 April coalition trucking contracts had produced the first deliveries of supplies by road. By mid May 90% of all relief supplies were delivered by truck.

As well as supplying the DPs the coalition states had also to supply their own forces. The quantities of gasoline and stores consumed were prodigious. The military logistic base was established at Silopi on the border. Commanded by Col (shortly afterwards Brigadier General) Harold E Burch, US Army, this base was the centre piece of the sustainment of the military force.³² Its success depended on state-of-the-art long distance communications. At the height of the operation in northern Iraq the base at Silopi required communications facilities capable of handling the equivalent of 10,000 long distance telephone calls per week.

After the immediate danger of mass starvation had been averted the death-rate amongst the DPs began to rise due to disease.

There are sometimes up to 40 people living under the same tent but these are not even tents, they are stretched blankets. People are too ashamed to relieve themselves during the day so they do it at night-time, between the tents. There is no hygiene anywhere. Every day 20 children are buried between the tents. Older people are dying too, so are the younger adults. They are dying even as I speak and one doctor serves 100,000 people.³³

²⁹ Rice, oil, vegetables, meat (lamb), flour, tomato paste, tea and sugar.

³⁰ John Murray Brown Financial Times 10 April 1991.

³¹ The local economy in south east Anatolia could not provide the extra food required by the DPs.

³² The non-US allies also had specialist requirements ranging from the preferred rations of the different nationalities to the spares required to maintain national equipments. The UK contingent drew stores from an RFA supply ship anchored off the Turkish coast.

³³ Dr Gerard Salerio of *Medecins du Monde*. Reported by George Church Time 22 April 1991.

The insanitary conditions caused widespread diarrhoea and thereby dehydration. Before long medical staff reported the first cases of typhoid, and then of cholera. On 15 April reported deaths amongst the DPs had fallen to 50 per day. By 25 April there were 200 DP deaths per day.³⁴ Military engineers piped clean water to the mountain areas to avert the danger of epidemic.

THE SAFE HAVENS

DEPLOYMENT AND PLANNING

On 8 April, anticipating future requirements, HQ USEUCOM had assigned the 24th Marine Expeditionary Unit (MEU), US Marine Corps,³⁵ to PROVIDE COMFORT. Accordingly the Marines moved by sea from their exercise area near Sardinia.³⁶ Two companies of men from the 2/8 BLT (Reinforced)³⁷ arrived by helicopter at Silopi on 15 April. USEUCOM also assigned the USS *Theodore Roosevelt* (CVN-71) then in the Red Sea, to join Operation PROVIDE COMFORT. The carrier battlegroup joined the command on 20 April.³⁸

On 16 April USEUCOM appointed Lieutenant General John M Shalikashvili US Army, deputy CINC US Army Europe, as commander PROVIDE COMFORT. Major General James Jamerson US Air Force became his deputy. Major General Jay Garner US Army, the deputy commander of US Army's V Corps in Germany, was appointed as the senior subordinate ground forces commander. General Garner took command of all ground forces assigned to Operation PROVIDE COMFORT, including 3 Command Brigade RM. (The detachments of SF and the Mountain Warfare Cadre of 40 Commando formed a separate subordinate command, Task Force ALFA, under Brigadier General Potter's command. These units were already at work in the mountains.) The Dutch contingent,

³⁴ Author's own record of events.

³⁵ A MEU is an amphibious force, embarked in specialist shipping. It comprises a marine Infantry 'battalion landing team' (BLT) with organic reconnaissance, artillery and engineers and with its own support helicopter force (4 CH-53, 12 CH-46). The 24th MEU is designated 'Special Operations Capable' (SOC). In June the 24th MEU's deployment to the European theatre was completed. It was replaced *in situ* by the 27th MEU.

³⁶ With the rest of the US 6th Fleet Marine Amphibious Readiness Group (MARG).

³⁷ 2/8 BLT was commanded by LTC Tony Corwin.

1 ASG (Amphibious Combat Group), the French 3eme *battalion paramarine* and the Italian special forces battalion from the *Folgore* Brigade arrived shortly afterwards. Other national contingents continued to arrive throughout the operation. On 17 April General Shalikashvili activated these units (Task Force Bravo) under General Garner's command.

HQ USEUCOM then handed a mission to Lt Gen Shalikashvili:

Combined Task Force PROVIDE COMFORT conducts multinational humanitarian operations to provide immediate relief to displaced Iraqi civilians until international relief agencies and private voluntary organisations can assume overall supervision.

The mission therefore had three parts:

- provide humanitarian relief to the DPs in northern Iraq
- handover the relief work to the UN and the aid agencies as soon as possible
- 'redeploy' the coalition forces to their home bases.

Gen Shalikashvili's concept of operations first required the delivery of aid by air and truck to the mountains. At the same time troops would start to build a safe area on lower ground to the south. When the DPs had recovered sufficiently they would be encouraged to move to the safe area (in the foothills) and thereafter travel to their own homes.³⁹ The forces would then hand over the operation to civilian agencies and return to base.

IMPOSING THE SECURITY ZONE

As the Turks would not allow the DPs to take refuge in Turkey the coalition's objective was to persuade and facilitate the people to return to their own homes in northern Iraq. The DPs, for their part, insisted on security guarantees before they would return to Iraq. On

³⁸ The *USS Theodore Roosevelt* remained assigned to PROVIDE COMFORT until June when her role was taken over by the *USS Forrestal*.

³⁹ Cushman p 81.

PROVIDE COMFORT

UNITED KINGDOM

94,525 SQ MILES

CTF-PC AOR

83,028 SQ MILES

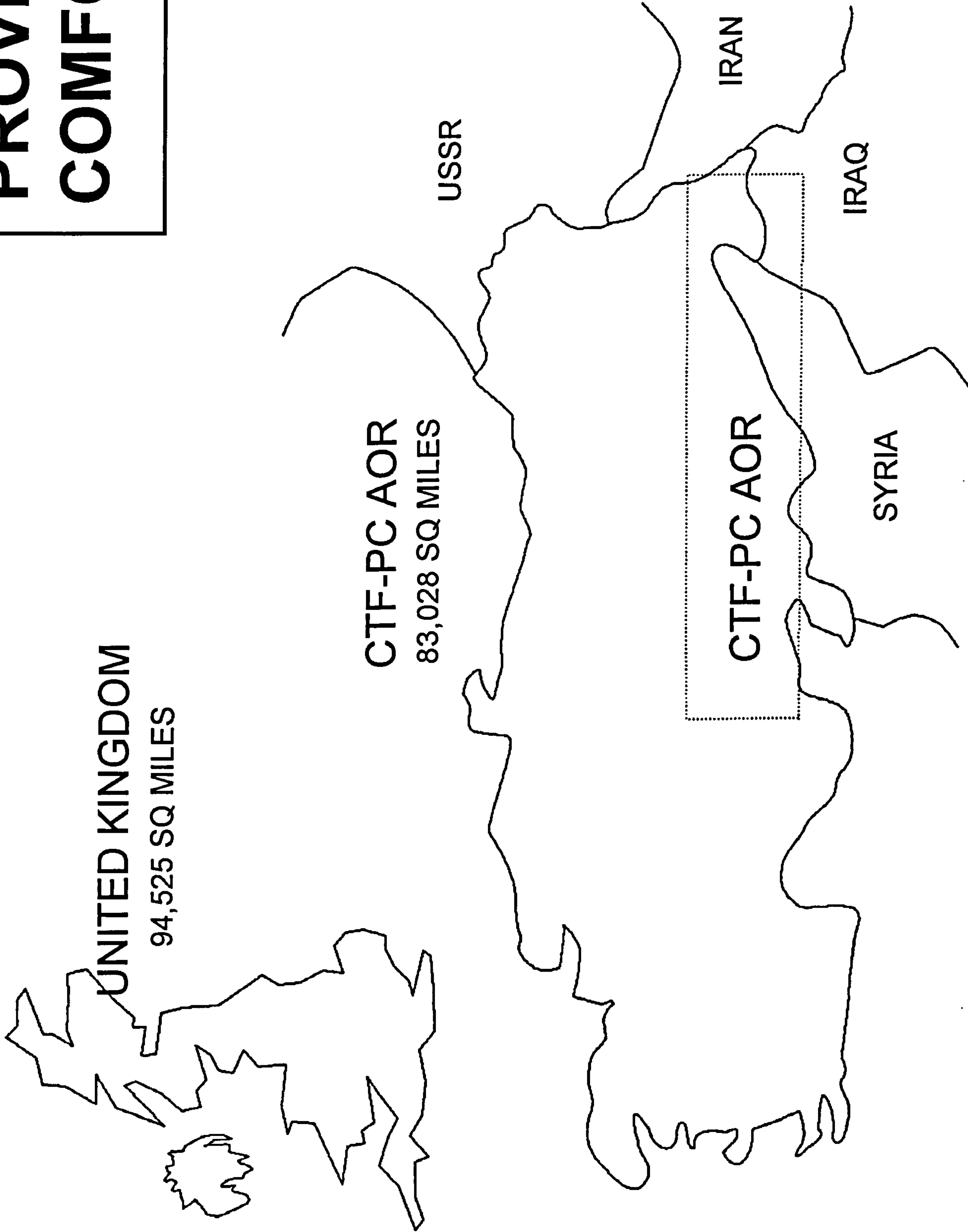
USSR

IRAN

IRAQ

SYRIA

CTF-PC AOR



18 April, therefore, the coalition announced the intention to create a 'security zone', cleared of all Iraqi ground forces, and build tented camps to house the DPs until they were ready and able to return to their homes. The first plan was for the creation of six 'zones of protection', each designed to accommodate 60,000 DPs. Later the plan was modified to the creation of three tented camps near Zakho, each designed to accommodate 20,000 DPs.⁴⁰

Coalition leaders were concerned that the intervention should not be seen as a partisan intervention to assist a Kurdish revolt. US officials expressed the hope that the rebels would not use the areas protected by coalition forces as bases from which to conduct raids against Iraqi units:

We are hoping that based on the mandate of [R 688] that all sides would abide by this humanitarian aspect, the Iraqi government as well as the Kurdish rebels that may be operating in the sector.⁴¹

ZAKHO

The town of Zakho, the centre of population in the security zone, normally has a population of 50% Kurd, 50% Iraqi Arab. Two battalions of Iraqi mechanised infantry⁴² supported by several hundred policemen, including some members of the Iraqi secret police formed the garrison.

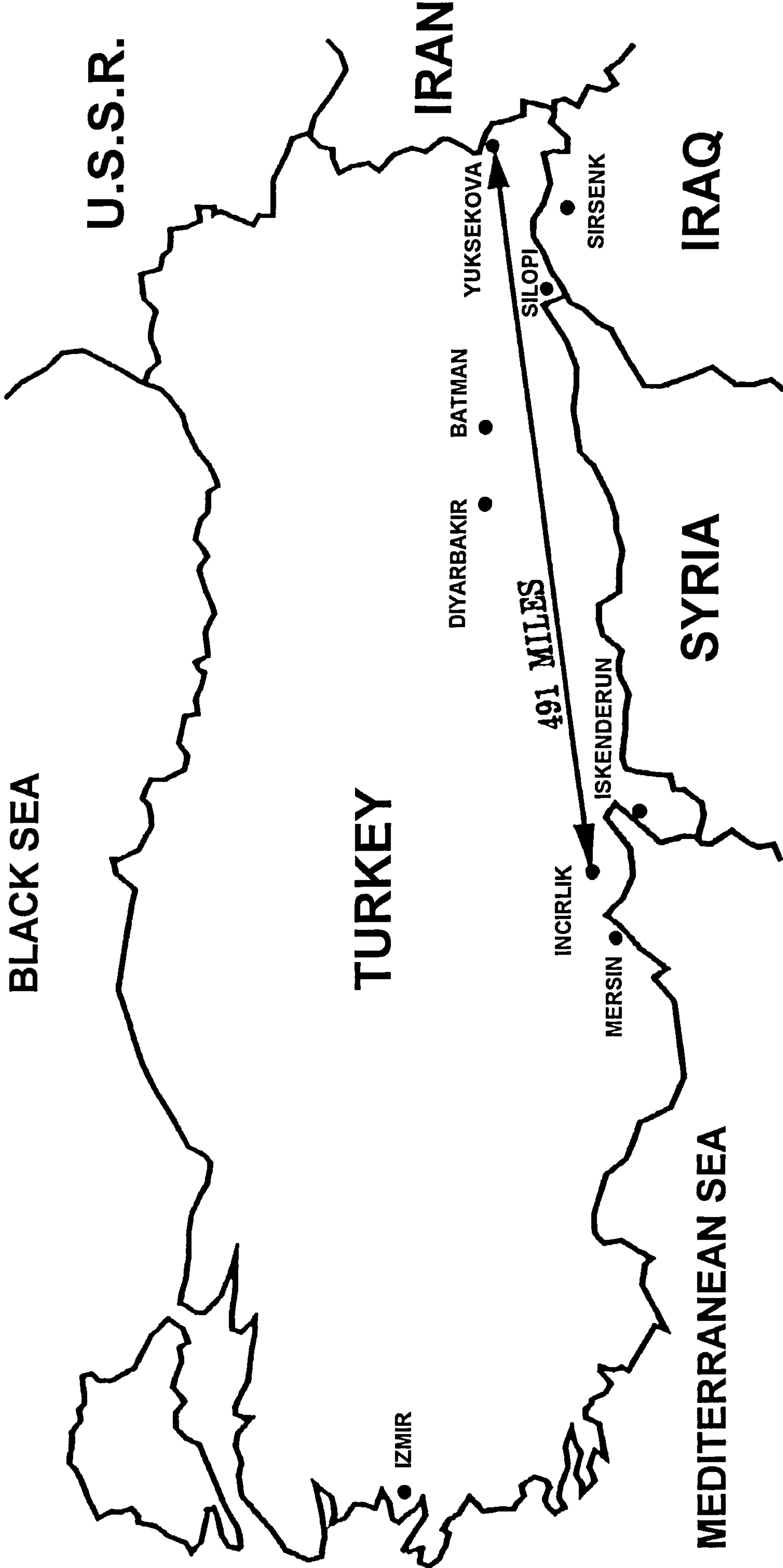
Coalition commanders believed that there were then the equivalent of five Iraqi divisions, and other units, in northern Iraq. These were later identified as the 10th, 33rd, 44th and 54th Divisions plus three independent brigades, the 66th (Republican Guard), the 121st and the 701st. Great efforts were made to assess the threat posed by these units to the coalition forces in Iraq.

⁴⁰ In the event only two camps were built. The second was never fully occupied.

⁴¹ White House Deputy Press Secretary Roman Popadiuk, quoted in USIA 18 April 1991. Also Middle East International 19 April 1991. Interview with Major General Robin Ross, Commander, British Forces PROVIDE COMFORT.

⁴² Part of Iraq's II Corps, headquartered at Irbil.

PROVIDE COMFORT



Coalition commanders were keen to establish contact with the Iraqi military authorities. They therefore set up a liaison unit to conduct regular meetings with Iraqi military representatives to warn the Iraqis of any coalition action they might misinterpret (such as practice firing of artillery). The liaison officers would also coordinate joint action in the event of clashes between coalition forces and Iraqi units. After a while this liaison activity was formalised into a 'military mission' tasked with liaison with the Iraqis. The Chief of the Military Coordination Centre (MCC) was Colonel Dick Naab, formerly Chief, US Mission to Headquarters The Group of Soviet Forces, Germany. As soon as the MCC was organised as a military mission British and French officers were assigned to it. Turkish officers were excluded from the MCC until Op PROVIDE COMFORT was reconfigured in mid-July.⁴³

On 19 April Gen Shalikashvili met Brigadier General Nashwan Danoon in Zakho and demanded that Iraqi forces should withdraw to a distance of 30 km from Zakho within 48 hours.⁴⁴ This 30 km circle was called the 'security zone'.⁴⁵ Nashwan asked for time to consult his superiors.⁴⁶ The following morning US Marines landed on the outskirts of Zakho. On 22 April, Maj Gen Garner entered the town and ordered the Iraqis to withdraw. 45 Commando RM, reinforced by two companies of Royal Netherlands marines, occupied the town. 2/8 BLT of 24th MEU followed soon afterwards.

⁴³ Turkish officers viewed their exclusion with concern. See p 240, below. Source: author's conversations with Turkish officers during the operation.

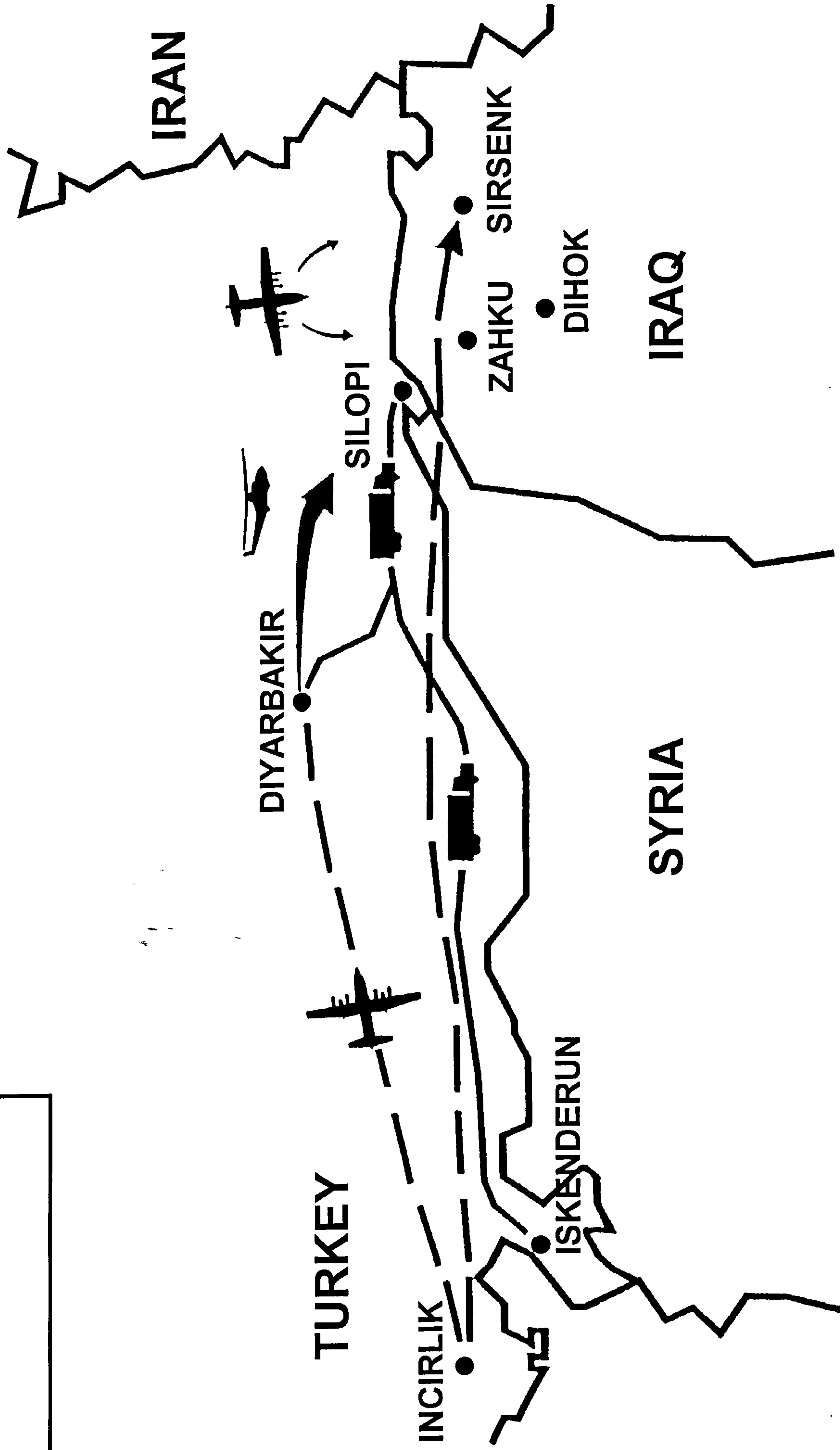
⁴⁴ According to Bellamy, p 150, coalition forces' observation of Iraqi military actions during and after the Kurdish and Shia revolts led to intelligence assessments that the Iraqis had retained 800 tanks (according to Brown and Shukman, p 180, 3700 out of a pre-Gulf War total of 4280) and 800 artillery pieces (according to Brown and Shukman, p 180, 2600 out of a pre Gulf War total of 3110).

⁴⁵ The 30 km circle covered the Zakho plain, to the east of the town, where the camps were to be built. It also covered the roads to the north-east leading to the passes where the DPs were located. Later coalition *demarches* extended the exclusion zone to the east to a distance of 150 km, creating a lozenge-shaped zone which covered all the passes occupied by DPs and the 'green' routes running south, and west from them.

⁴⁶ Nashwan continued to act as the regime's chief liaison officer with PROVIDE COMFORT until early June. It was later reported that he had been arrested and dismissed from military service. Washington Post 16 June 1991.

**PROVIDE
COMFORT**

DISTRIBUTION SYSTEM



The Iraqi forces obeyed the order to withdraw but 200 members of the Iraqi secret police (the Amn-al-Amm⁴⁷) remained behind in the town.

On 24th ,after several incidents, coalition commanders ordered the secret police to remove themselves from Zakho. They allowed 50 'ordinary' policemen to remain in town, operating under coalition military supervision.⁴⁸ Having secured Zakho, the home of many of the DPs in the mountains, coalition engineers began to build tented camps outside the town. Several concurrent actions were then in progress: the delivery of supplies to the mountain passes, the building of the tented camps and a public information campaign to persuade the DPs in the mountains to return to Zakho, or to their own villages. Engineers began clearing the roads south from the mountain passes and stockpiling petrol and spares for the thousands of vehicles abandoned by the DPs on their flight north. Finally coalition forces extended the security zone from Zakho in the extreme north west, eastwards to cover the foothills and the routes leading south from the mountain passes. Coalition spokesmen (and troops on the ground) called these the 'green routes'. At UN briefings these 'green routes' established, manned and protected by coalition forces, were invariably described as 'blue routes' to imply that the UN (the 'blue' organisation) had set up these safe corridors. Such claims irritated coalition personnel. Indeed there was always a measure of friction between UN and coalition leaders on the ground when UN spokesmen claimed the credit for actions taken by coalition forces.

PKK units under the command of a 'General Ali' in the area of Quasrok obstructed the route to be taken by the DPs from the mountains to Zakho⁴⁹. A US Marine commander

⁴⁷ The secret police organisation in Iraq was then commanded by Brigadier Omar Khartib, like Saddam Hussein a member of the al-Tikriti clan. Saddam's nickname for this man is reputed to be 'Al Muz'abib' (the Tormentor). The secret police is not to be confused with the Iraqi counter-intelligence service, the Mukharabat, then commanded by Brigadier Hassan Rahmani. Source: author's own record.

⁴⁹ This reduced police presence was allowed to remain in Zakho at the request of the Iraqi representative to the United Nations, Abdul Amir al-Anbari on 25 April. Coalition commanders decided that a token force of Iraqi police (not secret police) would be helpful in maintaining order.

persuaded the PKK to allow the DPs' transit. Even with this successful negotiation completed the escorting of the DPs south from the mountains was a massive operation. The routes south from the mountain passes were blocked by thousands of abandoned vehicles. The troops assigned to escort the DPs south opened the routes, assisted with mechanical repair, refuelled (or removed) broken-down or abandoned vehicles, provided transport for the feeble, as well as food, water and medical aid. At many 'way-stations' on the 'green routes' troops worked for six weeks on escort duty. Lieutenant King, of 40 Commando, later wrote of his experiences at Kani Masi, a track junction chosen as the site of a way-station.

We began in Kani Masi where we set up a way station just 10 miles from the Turkish border.... Over 210,000 [DPs] moved through our location. We subsequently fed, watered and transported 100,000 of these to their homes, in 3000 truck loads. The refugee camp around us grew from 200 to 29,000 in a period of four weeks.... Over 10,000 [DPs] were treated [by our medical staff]. The majority of patients were under 4 years of age mostly suffering from malnutrition but included problems varying from cholera to gunshot wounds.⁵⁰

EXTENDING THE SECURITY ZONE TO THE EAST

In addition to 24th MEU, 45 Commando RM and the Netherlands marines in Zakho Maj Gen Garner had under command the newly arrived 3-325 Airborne Combat Team (ACT) US Army⁵¹, a unit of US Navy SEALs, 40 Commando RM and the Brigade troops of 3 Commando Brigade RM, a Spanish parachute battalion, an Italian SF battalion and a battalion of French marine infantry.⁵² Amongst the

⁴⁹ PKK activity in the border area increased as soon as the coalition established its security zone. Three senior Turkish officials were assassinated in Sohal on 28 April. The PKK also intensified its propaganda attacks on Talabani and Barzani, accusing them of collaboration with Turkey.

⁵⁰ Lt D C M King RM 'Crisis, What Crisis?' The Globe and Laurel September/October 1991 p 278.

⁵¹ A parachute-trained battalion group of 1100 men, with an organic artillery field battery and a fleet of wheeled vehicles sufficient to carry the whole unit in a single lift. The commander of the 3-325 was Lt Col John P Abizaid. US Army.

⁵² A seasoned observer, retired Lt Gen Cushman has noted the unusual cooperation between the units of the US Army, Marines and Air Force on PROVIDE COMFORT. Under normal circumstances, even on active service, inter-Service rivalry shows itself in doctrinal wrangling, if not in other forms. There was almost none of

supporting troops was an Italian field hospital. Maj Gen Garner re-ordered his command as follows. He transferred 40 Commando to Task Force Alfa (Brigadier General Potter), the SF group operating in the passes.⁵³ He replaced 40 Commando in Zakho with 2/8 BLT from 24th MEU, supported by a 250-strong US Army military police unit. He placed the Italian SF battalion under command 3 Commando Brigade and gave orders that the brigade should prepare to extend the security zone eastwards by occupying the villages of Batufa, Sirsenk, Al-Amadiyah and Suri, the last being the farthest to the east, 120 km from Zakho. These operations were carried out by helicopter. In order to provide additional surveillance to the south Task Force Bravo covertly deployed the SEAL units to concealed observation posts south of Dohuk, in territory occupied by Iraqi forces. Batufa (Netherlands marines) was secured on 27 April, Sirsenk (3-325 ACT) on 2 May and Al-Amadiyah (45 Commando) on 3 May. The French marines, with an Italian SF platoon under command, occupied Suri on 8 May.

The security operations on the ground were supported at all times by coalition air forces. The US air forces comprised two fighter wings and the air wing embarked on the carrier in Turkish waters in the eastern Mediterranean. These units were supported by UK (JAGUAR)⁵⁴, French (MIRAGE 2000) and Italian combat aircraft based in Incirlik. The 4th (Aviation) Brigade, 3rd Division US Army provided additional combat air support with its 18 APACHE attack helicopters.

THE CONSTRUCTION OF THE CAMPS

The military engineer contingent in Operation PROVIDE COMFORT comprised the (US)18th Engineer Brigade, SEEBEES⁵⁵, a USAF ordnance clearance unit as well as

this on PROVIDE COMFORT. Cushman also marvels at the informality of the command and control arrangements between the US commander and the coalition contingents. No MOUs were negotiated - Shalikashvili's orders were carried out without concern for legal forms. Cushman p 82.

⁵³ 40 Commando's task would be to escort the DPs on their routes south from the passes to the tented camps being built at Zakho or to the other villages in the security zone.

⁵⁴ The JAGUAR detachment joined PROVIDE COMFORT in July, after several false starts.

⁵⁵ These were detachments from the 133rd SEEBEE Battalion and the Naval Mobile Construction Battalion 113, both based at Rota, Spain.

British, Dutch and French field engineers. The commander of 18th Brigade (Colonel A Winsor) took on the task of coordinating the construction project for the tented camps at Zakho.

In less than 2 months these engineers built two camps⁵⁶ with a total capacity of 40,000. Other tasks included the handling of heavy containers at the port of Iskanderun and ordnance disposal throughout the security zone.⁵⁷ Engineers also renovated the airfield at Sirsenk, 60 km east of Zakho.

DOHUK

The first 250 DPs made their way from the mountain passes towards Zakho, arriving on 27 April.⁵⁸ By 3 May 4000 DPs were resting in the first camp at Zakho and perhaps 80,000 had made their way direct to villages and towns elsewhere in the security zone. Between 200,000 and 300,000 still remained in the mountains. As many of these people intended to return the town of Dohuk coalition commanders decided to extend the security zone southwards, to include Dohuk, without further delay.

It became clear, however, that the Iraqis were unwilling to withdraw their forces from Dohuk, a regional capital and a town with a substantial Arab population. It was assessed that a coalition occupation of Dohuk might provoke an Iraqi attack on coalition forces.

The remaining Iraqi offensive military capability was of great concern to coalition commanders. They estimated that there were three full-strength Iraqi army divisions and one Republican Guard brigade in the region (out of a total of five divisions assessed to be in the north of the country.)

⁵⁶ Several authors refer to 'six zones' or 'six camps' (Freedman and Boren p 54-58). The 'six camps' plan existed only in the pre-deployment phase of planning. From 20 April the coalition considered the security zone as one entity and only constructed two camps, both outside Zakho. By the end of Operation PROVIDE COMFORT (1) these camps had assisted 250,000 DPs as they passed through. Bolger p 258.

⁵⁷ By agreement in the MCC the Iraqis provided engineers to clear ordnance in northern Iraq, under coalition supervision.

⁵⁹ John Sweeney The Independent 28 April 1991.

The Iraqi capability in weapons of mass destruction (WMD) caused particular concern. On 18 April Iraq had ratified the Biological Weapons Convention declaring that Iraq 'did not possess any WMD or related devices'.⁵⁹ Nevertheless this concern constrained the coalition military activities in northern Iraq throughout PROVIDE COMFORT, even though commanders never took the step of immunising troops, as they had during the air war phase of the Gulf War.

Coalition ground force units were light troops, with minimal combat support. Air support depended on bases hundreds of miles to the west.⁶⁰ Ground force units were, furthermore, dispersed (to reassure civilians), not concentrated for combat. Furthermore the posture of nearby Iraqi forces posed the threat of an infiltration attack on coalition positions, especially at night. If such an attack had closed with coalition infantry, coalition air forces would have had difficulty in supporting their own ground forces. Coalition governments were unwilling to consider retaliatory air strikes on Iraqi targets of value elsewhere in the country as a deterrent to, or punishment for, an attack on their ground forces in the security zone: they perceived a risk of re-starting the Gulf War.

On 5 May coalition forces confronted Iraqi units on the high ground 5km to the north of Dohuk. On 7 May an all-night planning session in HQ Operation PROVIDE COMFORT considered the need urgently to concentrate coalition forces in the security zone to withstand an Iraqi attack. The indications were evenly balanced. Some pointed to an imminent attack. Others suggested that Iraqi commanders were still weighing their options. Coalition commanders were reluctant to order a concentration in case the troops' movements alarmed civilians. A scare might cause another migration to the

⁵⁹ Quoted in Tucker p 251.

⁶⁰ The air support problem was in the resupply of 'weapons' for use in air operations. Whereas aircraft could refuel using AAR they could not re-arm without returning to base many miles away.

mountains. On 13 May coalition forces identified patrols of the Iraq's 66th Special Forces brigade and elements of the Iraqi armoured units present in the area. Republican Guard tanks were detected moving into Dohuk from the south.

The Dohuk operation paused while political discussions continued in capitals. Reporters soon recorded coalition troops' impatience at the delay in 'taking Dohuk'. In meetings at the MCC the Iraqis⁶¹ negotiated with greater and greater confidence. Despite the assessed risk coalition forces remained dispersed. On 20 May the Iraqis agreed to withdraw their forces and secret police from Dohuk. The coalition agreed that only non-combat coalition troops would enter when they left. These troops would provide reassurance for Kurds intending to return. They would also would repair municipal facilities. Days later the final Kurdish exodus from the mountains via the 'green routes' and way-stations began; all the DPs had left the passes by 6 June.⁶² The non-combat coalition troops remained in Dohuk till 20 June.

To summarise the movement of the DPs from the mountains to their homes the UNHCR recorded the numbers of persons receiving aid on 12 May, 20 May and 6 June:

Location	12 May	20 May	6 June
Isikveren & Kayadibi	1000	0	0
Yekmal	60,000	12,000	0
Umzulu	28,000	6,600	0
Cucura	100,000	78,000	0
Narli Bridge	19,750	0	0
Pirinciken	3,500	0	0
Semdinli & Yesilova	15,000	6,500	5,200
Aoma Kopru	5,000	0	0

On 6 June there remained 13,400 DPs unwilling to return home. These were concentrated at Semdinli and Silopi.

HANDOVER TO THE UN AND THE AID AGENCIES

⁶¹ Under the auspices of the MCC.

⁶² Lt Col G L Kerr 'Operation HAVEN' Journal of the Royal Artillery Vol CXIX March 1992, pp 12-23.

On 15 April the UN representatives, Sadruddin Aga Khan and Eric Suy, received a clear signal that Iraq would consent to the UN humanitarian plan. Sadruddin signed a 'memorandum of understanding' (MOU) on 18th. This 21-point agreement allowed 100 UN civilian staff to enter the country and coordinate aid agencies' relief activities wherever they were required.⁶³ From that point on the UN was committed to a consensual approach in its humanitarian work in Iraq. The coalition, in contrast, acted despite Iraq's objections but relied, in part, on the UN to take over their activities when they chose it right to terminate their operation and depart.

PROVIDE COMFORT's mission foresaw a transfer of responsibility for the 'safe havens' tented camps from the military to the UN just as soon as the UN (and the aid agencies) were willing and able to administer them effectively. On 19 April, White House spokesman Marlin Fitzwater had said:

The UNHCR is preparing to take over the camps and to run them. They are getting the necessary assurances from Iraq. Our troops are in there now surveying sites and getting ready to build the camps... the US, British and French personnel will be involved in helping to run them and get them established. Iraq essentially has agreed to all of that and not to interrupt in any way.⁶⁴

It was understood that there would be a transitional period when the UN controlled the camps but the coalition continued to provide security for the aid workers and the DPs. Nonetheless the UN take-over of the camps would mark the high-water mark in the military operation. Soon afterwards the forces would return to home base.

Most of the coalition states had been reluctant to commit their forces to the intervention operation. For

⁶³ For details of the 'framework' (and later MOU), see pp 217-219 above.

⁶⁴ White House report 19 April, USIA 22 April 1991.

the same reasons they looked ahead to the 'end-game': the return of their forces after the accomplishment of the mission. The coalition's 'exit strategy' required the following: a handover of humanitarian activities to UNHCR and the aid agencies and the handover of the security activities to some other international force.

Commanders wanted to transfer responsibility for humanitarian relief just as soon as the UN and the aid agencies would take them over. But the aid agencies made it clear that they would withdraw their workers - and cease their relief work - when the military protection was withdrawn. The Kurds also made it clear that they would be ready to flee again to the border if there was no protection for them from the Iraqis. So the coalition states and the UN set about forming a replacement security force to protect the aid workers and reassure the former DPs.

As described above⁶⁵ the UN Secretariat was reluctant to take responsibility for any part in the intervention operation. First, there appeared to be no likelihood of the Security Council going beyond the limited mandate of R 688. There was therefore a question over the legality of any intervention enacted without Iraqi consent. Second, the Iraqis might have seen the UN's taking over on the work of PROVIDE COMFORT as endorsement of the forcible intervention. They might have refused to allow the aid agencies' humanitarian efforts in the south. Their consent would also be needed for humanitarian work in the north after the military intervention there came to an end. In order to achieve effective and lasting relief efforts throughout the country, therefore, the UN preferred to seek Iraq's agreement, even if this brought constraints on its activities. To obtain that consent the Secretariat and the aid agencies distanced themselves from the coalition's forcible, limited-duration, action in the north.

The 'other international force' which would continue to protect the Kurds and the aid agencies was to be the 'UN Guards'. This was a British proposal. The Secretariat

raised two early objections. The first was the mandate: officials saw no likelihood of a new Security Council resolution authorising such a deployment. There was also concern that the cost of such a force should not fall on the already overstretched UN budget. Later the Secretariat found a precedent for a deployment of peacekeepers without an authorising resolution⁶⁶ and obtained agreement that the costs of their operations would be met by a special fund.⁶⁷ Iraq agreed to admit the Guards, but only after it had secured concessions on the operations of that unit.

The UNHCR, although involved in northern Iraq from the outset, was unwilling to assume responsibility for the 'safe haven' tented camps as early as coalition states would have wished. This approach was determined first by the reluctance of the other aid agencies to accept 'coordination' of their efforts and second by the concern that responsibility would bring additional financial burdens to UNHCR itself.⁶⁸ Finance was a persistent problem: Sadruddin Aga Khan's appeal for funds - updated on 12 June - struggled to achieve its targets. By 1 May the UN had only received \$ 185m of the \$ 414m - the budget for the first 4 months - it had been seeking since the launch of its appeal on 11 April. Mrs Ogato warned:

At a time when governments are urging the United Nations to take over and coordinate an emergency aid programme of such dimensions it is vital that adequate resources be put at our disposal....If further special allocations are not made immediately the entire humanitarian effort will be in dire jeopardy.⁶⁹

The UNHCR was also reluctant to take full charge of the tented camps because it did not have the management in

⁶⁵ See pp 219-221, above.

⁶⁶ In 1964 the UN had deployed a 35-strong contingent of CIVPOL as an additional element of the existing UNIFCYP by the authority of the Secretary-General. There was no Security Council formal endorsement in a Resolution. This decision had never been challenged.

⁶⁷ Senior former UKMis official.

⁶⁸ UNHCR's full-time chief representative in Iraq was Mr Stefan di Misura. His subordinate at Incirlik was Miss Isumi Kawasaki. Another UN important official in Iraq was Mr Max van der Stoep, the Special Rapporteur on Human Rights.

⁶⁹ Staff Dispatches International Herald Tribune 4-5 May 1991.

place to run the operation effectively. The aid agencies, loosely coordinated by UNHCR, took charge of the *distribution* of food in the camps from 6 May. Provision of supplies and services remained a military responsibility till 7 June.

At this time, in accordance with the MOU, UNHCR aid workers and 'international volunteers' began to enter Iraq, through Baghdad. UN officials appeared content to see the military and the aid agencies continue to take the lead in the humanitarian tasks - and to continue to bear the costs of those tasks.

The military, for their part, were increasingly aware of the contradictions between the forcible intervention policy taken by the coalition in the north and the consensual policy taken by the UN elsewhere in Iraq. They wondered if the UN would ever be able to take charge of both initiatives. Coalition commanders were also concerned about the expense of the operation to their military budgets.⁷⁰ Another concern was fatigue amongst the troops: many of the non-combat troops involved had been on detachment since their deployment for the Gulf War⁷¹ the previous autumn.

In the coalition there was also concern over the attitude of the Kurds. Kurdish leaders clearly wanted to delay the departure of the coalition forces until they had secured Iraqi agreement on some form of autonomy. In the shorter term Kurdish clans and families made it clear that they had no confidence in the protection offered by any civilians - including 'UN guards' - against the Iraqi security forces and secret police. Many Kurds refused to move south from Zakho while the Iraqis were able to threaten their intended routes and destinations.

⁷⁰ A support helicopter costs on average £ 4000 an hour in the air. But commanders were not only concerned about financial cost. Many coalition equipments, especially the support helicopters, were overdue on maintenance. Helicopter unit commanders estimated that the consumption of spares resulting from the high altitude flying with heavy on-board loads would mean minimal flying training for their units on return to base, for the following two years.

⁷¹ In contrast few of the ground combat force units employed in PROVIDE COMFORT had taken part in DESERT STORM.

While these negotiations continued the first 'guards' arrived in Baghdad on 3 May and began training. These men had been recruited from among the uniformed employees of the UN in Geneva: they were normally responsible for the security of the UN *Palais des Nations* building. Others later joined from elsewhere. Some had previous military or police experience but they came together for the first time in Iraq. Apart from a designated 'chief' and a 'deputy chief' They were all of the same military rank or grade: there were no other 'officers' or 'NCOs'.

The agreement authorising the presence of the 'guards' in Iraq was signed on 24 May and was attached to the UN-Iraq MOU of 18 April. The Secretary-General was later (12 June) to describe the points of agreement as 'extremely innovative'.⁷² The agreement provided for 500 'guards', armed with handguns but with no power of arrest, to operate in Iraq. The regime insisted, however, that the 500 should not concentrate in one area: no more than 150 were to be allowed to serve in any one of Iraq's five administrative areas. The weapons were issued by, and remained the property of, Iraq.⁷³

The UN (and the coalition) first tried to reassure the Kurds and the aid workers that the guards would guarantee their security. Statements were also made to reassure international opinion that a competent force would guarantee security after the departure of the military contingents. Spokesmen embellished the guards' task for a second reason: in order to persuade potential donor nations to provide the funds. The UN struggled to raise of the \$ 35m required for the Guards first 9 months of operations.⁷⁴

In early June, however, Sadruddin described a more restricted role for the guards. In his 12 June 'Updated Appeal' he confirmed that force would provide security for the 1000-2000 UN personnel, their equipment and

⁷² Address to the Donor Nations in Geneva.

⁷³ Source: John Packer

relief aid supplies, the 'precious human and material assets deployed in the humanitarian operation' in Iraq. The guards' would not attempt to protect the Kurds or any other minority group.⁷⁵ The Secretary-General described the guards, on 12 June, as 'a contingent of veritable humanitarian witnesses'.⁷⁶

UN HQ had authorised and obtained diplomatic clearance for 500 guards. Of these 60 were already in country. Small detachments had deployed to all the major towns of northern Iraq by mid-June. (By 1st July there were only 150 in Iraq, deployed in small groups in the north and the south of the country, and in Baghdad.) The Co-ordinator of relief work, the Chief of the Guards Contingent (and his deputy) were at work in a headquarters located in Baghdad. It was planned that the guards would be organised into five regional sectors, with each sector staffed by ten 'teams', each of eight guards. The equipment requirement was for 100 vehicles (of which 20 were to be radio-equipped) 15 5-ton trucks, 1 30-seat bus, 5 observation and 2 support helicopters (with crews) 6 long-distance HF radio sets, 6 SATCOM transceivers, 200 hand-held VHF radios.

IRAQI-KURD NEGOTIATIONS AND THE WITHDRAWAL OF COALITION FORCES

The negotiations between Kurdish representatives⁷⁷ and Iraqi officials began in Baghdad on 20 April⁷⁸ and soon⁷⁹ announced 'agreement in principle'.⁸⁰ The seventeen-party

⁷⁴ Sadruddin Aga Khan 'Give the United Nations Guards a Chance in Iraq' IHT 13 June 1991 p 4

⁷⁵ In fact Sadruddin was fighting his own battles with UN Secretariat in New York. Officials close to the Secretary-General were determined to present the UN and its contribution in the best possible light. Faced with increasing media scepticism Sadruddin refused to continue to "talk up" the guards' mission. 'UN police ride out on mission impossible' The Sunday Times 23 June 1991.

⁷⁶ The Secretary-General's statement to donor nations, in Geneva.

⁷⁷ Talabani's delegation included representatives of other opposition parties - but not from Shia groups. Rasoul Mahmand (Secretary-General, Kurdish Socialist Party), Sami Abdul Rahman (Secretary-General, Peoples' Party of Kurdistan), and Nashirwan Barzani (representing the KDP).

⁷⁸ One report indicates that the Kurds and the Iraqi regime were in official contact since late March. John Simpson 'The Voices Against Saddam' The Observer 28 April 1991.

⁷⁹ Kurds in Teheran held hostages nominated by the Iraqi government during the talks. The Independent 23 April 1991.

anti-Saddam opposition front, formed in Damascus in December, immediately collapsed. The Shia opposition leaders denounced Talabani for his 'betrayal'.⁸¹ A mass meeting of Kurdish elders and notables then met at Shalaqwa and rejected the Iraqi terms: the Kurdish leadership could not accept anything less than full control of Kirkuk. Barzani argued that the objective for the next round of negotiations was a plan to bring genuine democracy to the whole of Iraq. In his view in a truly democratic Iraq the Kurds would have nothing to fear, even if they did not control Kirkuk. Talabani - despite his earlier confidence - insisted on the importance of an autonomous region, as had been agreed in the 1970 'Manifesto Agreement'.⁸² The meeting then drew up a mandate for the next round of negotiations. It appointed Barzani to be the chief negotiator.⁸³ Talabani would concentrate on international diplomacy.

When the negotiations resumed the Kurds argued that the autonomous region should run from Sinjar (west of Mosul) as far south as Khaneqin. (This is a larger area than the zone provisionally established in the 1970 agreement.⁸⁴) A second point of contention was the Baath regime's insistence that the Kurds should assist them in putting down Shia unrest in the south of the country.⁸⁵ According to one account the KDP, at least, was willing to fight the regime's Iranian enemies. British journalist David Hirst reported an incident when Kurdish *peshmerga* killed 57 Iraqi and Iranian Shia, after they had been captured.⁸⁶ In June the Iranians announced the formation of a new Kurdish Islamic Movement, to be led by Ahmed Barzani. It would have no dealings with the

⁸⁰ The Iraqis offered to create an autonomous Kurdish region and to allow the Kurds to return to the lands from which they had been driven in 1987-8. There was provision for free elections and a free press in that region. Talabani then had to persuade the KDP to accept the deal. Bulloch and Morris p 41.

⁸¹ Victor Mallett Financial Times 26 April 1991.

⁸² Allan Cowell International Herald Tribune 18 April 1991.

⁸³ The Kurds' decision to continue negotiating was unpopular with many of the non-Kurd partners in the 'front'.

⁸⁴ McDowell p 119.

⁸⁵ Entessar p 149.

⁸⁶ Guardian Weekly 28 April 1991.

Iraqi regime nor would it cooperate with Iraqi Kurdish groups.⁸⁷

From the 11 April cease-fire onwards the Kurdish leadership was determined to exploit international sympathy to obtain an advantageous and lasting settlement with the Iraqi regime. Later the Kurds were determined to exploit the presence of coalition forces and the international disrepute of the Iraqi regime to achieve a lasting political settlement. The strength of the Kurds' position was that the coalition forces were engaged on their behalf, providing protection in a part of the Kurdish territory and exerting political influence on Baghdad through economic sanctions. The weakness of the Kurds' position arose from the lack of coalition protection for many of their areas.⁸⁸ The largely-Kurdish cities of Mosul, Suleymanieh and Kirkuk were outside the zone.

In May the UN and the NGOs began to assume responsibility for the humanitarian programme and the UN guards began to arrive in Iraq. Inside the coalition a dispute began to develop on the timing of the forces' withdrawal.⁸⁹ For the US Administration a speedy withdrawal was highly desirable. The domestic public pressure for intervention had begun to subside. The celebrations of the Gulf War victory were about to take place. Political and military leaders wanted to terminate the follow-up humanitarian action in northern Iraq. The Administration therefore sent General Powell, the Chairman of the Joint Chiefs of Staff (30 May) to visit Operation PROVIDE COMFORT to discuss the timing of the withdrawal. One week later, on 8th, Gen Powell was present at the Washington parade for the returning Gulf War veterans. The New York 'ticker-tape' parade followed on 10 June.⁹⁰

⁸⁷ Entessar p 149.

⁸⁸ The forced absence of Iraqi ground and air forces and secret police only applied in the 'security zone' in the north west border region, in Zakho and 120 km to the east. More limited protection was offered by the air exclusion zone north of latitude 36°N (which crosses Iraq south of Mosul and just north of Kirkuk).

⁸⁹ The number of military personnel taking part in PROVIDE COMFORT in Turkey and Iraq reached its high point - 21,700 - on 21 May.

⁹⁰ 'Americans dither over the future of troops in Iraq' The Times 22 June 1991 p 11.

The Kurds were still negotiating with the Iraqi regime, however, and expressed alarm at the prospect of the troops' withdrawal. Hosni Zebari, the KDP spokesman in London, warned:

The US is sending the wrong signals, encouraging Baghdad to harden its position in the belief that allied forces are about to withdraw. Humanitarian assistance alone will not solve the issue, there has to be a political solution. By pulling out before a political solution [is reached] they are inviting disaster.⁹¹

Jalal Talabani also protested:

I think if they leave without achieving democracy in Iraq or before a final agreement between the Kurds and the Iraqis [is concluded]... the people will again leave their towns for the mountains.⁹²

The European coalition partners supported the Kurds: they recognised that the achievements of the intervention would be lost by a premature withdrawal. There was also a risk that the Iraqis - or the Kurds - might create an incident to coincide with the coalition forces' withdrawal.⁹³

The media was also alert to the policy question: coalition political leaders found themselves accused of either 'abandoning' the Kurds, or being sucked into the 'quagmire':

Every reporter I meet out here has written two articles before he meets me: one under the headline 'Allies Abandon the Kurds', the other 'Allies Bogged Down in Kurdistan'. They don't mind which they file with the paper back home. If they're lucky they may get to file both.⁹⁴

⁹¹ Kathy Evans and Chris Stephen 'Allies Pullout worries Kurds' The Guardian 1 June 1991 p 1.

⁹² Hugh Pope 'Kurds hit hurdles in Talks with Saddam' The Independent 11 June 1991.

⁹³ On 9 June the media reported a major Iraqi offensive against the 'marsh Arabs' in the south east. Phil Davidson 'Iraqi soldiers trap 850,000 Shia refugees' Independent on Sunday 9 June 1991 p 13.

⁹⁴ Lt General John Shalikashvili. Remark made in the presence of the author, June 1991.

Turkey wanted the coalition operation to cease in the near future. It was keen to begin rebuilding its relations with Iraq and to regain full control of cross-border movements in its Kurdish areas. But it was also determined to avoid a renewed exodus of Iraqi Kurds. On 16 June in Ankara President Özal and several Western diplomats met Jalal Talabani. Speaking for the coalition Özal told Talabani that the forces' withdrawal would be postponed until the Kurds had reached agreement with the regime. The planning date for the withdrawal was first set (in mid-May) for 27 June, then postponed to 4 July and then 15 July.⁹⁵

The Western states were in favour of greater democracy in Iraq and autonomy for the Kurds. But they did not wish to endorse any particular formula for democratic government nor did they want to give the Kurds the right to call on their assistance at any time in the future. They preferred the idea of Security Council endorsement of the future settlement.

Also in mid-June there was disagreement between Kurdish groups. Massoud Barzani continued to express confidence in the bargaining with Saddam. Talabani, on the other hand, was increasingly insistent on a favourable outcome of the negotiations on the status of Kirkuk. He was openly sceptical of the regime's good faith.

The Baghdad regime then made several concessions: over Kirkuk (joint control), amnesties for Kurdish refugees abroad, compensation to the families of dead Kurdish fighters and elections for a body to govern the new autonomous zone. In return the Baath demanded that the Kurdish parties should publicly endorse the regime and its policies. The Iraqi Kurds should cease their independent foreign diplomacy, should close down their two broadcasting stations and hand over their heavy weapons.⁹⁶ Kurdish negotiators indicated optimism⁹⁷ and travelled north to report to the wider KPF leadership,

⁹⁵ On 14 June coalition personnel in theatre (Turkey and Iraq) numbered 18,000. Sarah Helm and Christopher Bellamy 'Pull out from safe havens speeds up' The Independent 15 June 1991.

⁹⁶ McDowell p 120.

⁹⁷ Annika Savill 'Kurds reach draft agreement pact with Saddam' The Independent 22 June 1991 p 10.

again at Shalaqwa. But there, on 24 June, the leadership decided it could not accept the terms.⁹⁸

On 16 June thousands of Kurds marched through Dohuk to protest at the imminent departure of the coalition forces from the security zone.⁹⁹ On 17 June coalition spokesmen gave the number of coalition troops in northern Iraq as 8,000, including 3,000 British and 3,117 Americans.¹⁰⁰ On the same day British, French, Italian and Dutch foreign ministers met in Luxembourg and announced after their meeting that 'no firm date' had been fixed for the coalition forces withdrawal from northern Iraq.¹⁰¹ They would not authorise the withdrawal of their forces until the situation in northern Iraq had become more stable. Douglas Hurd said:

We went into northern Iraq in order to persuade the Kurds to come down from the mountains - to save lives. We don't want the operation to end in a way that will merely re-create the same problem.¹⁰²

On 19 June at a CSCE meeting in Berlin Douglas Hurd and James Baker discussed the timing of the final withdrawal. Hurd told Baker that his conditions for the withdrawal were the presence of effective 'UN security forces', the successful termination of the Kurdish-Iraqi autonomy talks, and a clear threat of the return of coalition forces if the Kurds were harassed in the future.¹⁰³

On 20 June the coalition forces in Turkey numbered 5,800; 3,000 (mostly British, French and Italian troops) remained in northern Iraq.¹⁰⁴ At this point commanders

⁹⁸ Patrick Cockburn The Independent 25 June 1991. [In October 1992 the Iraqi Kurds held an election and afterwards proclaimed, unilaterally, the formation of an autonomous zone in northern Iraq, with its parliament in Irbil.]

⁹⁹ Andrew Roche The Daily Telegraph 17 June 1991.

¹⁰⁰ Boris Johnson and Peter Almond 'Hurd says troops must stay' The Daily Telegraph 18 June 1991 p 9.

¹⁰¹ The foreign ministers were resisting US pressure for early withdrawal.

¹⁰² Sarah Lambert, Leonard Doyle and Stephen Goodwin The Independent 18 June 1991.

¹⁰³ Michael Binyon 'Hurd sets conditions for allied pullout from Kurdish havens' The Times 20 June 1991.

¹⁰⁴ Annika Savill 'Kurds reach draft autonomy agreement with Saddam' The Independent 22 June 1991 p 10.

were still planning to withdraw their remaining ground forces from northern Iraq by 27 June.

On 22 June the steady withdrawal of coalition units from northern Iraq was halted. In the same month the civil war in Yugoslavia began.¹⁰⁵

The US Administration approved a new planning date for withdrawal: 4 July. Then a further delay was approved and the final withdrawal took place on 15 July. Maj Gen Garner, commander of Task Force Bravo, was the last coalition soldier to leave Iraq. The departure of the troops was marked by friendly demonstrations in the towns inside the coalition security zone. Relieved that there had been no adverse reaction from ordinary Kurds Gen Shalikashvili said: 'We'll be just a phone call away'.¹⁰⁶

In order to show the coalition's continued support for the Kurds the US sent other high-level visitors to the region. In early July Paul Wolfowitz (US Deputy Secretary of Defense) and US Congressman Steven Solarz visited Turkey.¹⁰⁷

On 21-22 July President Bush visited Turkey immediately after he had visited Greece.¹⁰⁸ His purpose did not concern PROVIDE COMFORT; he was travelling in the Eastern Mediterranean to launch his new initiative on Cyprus. His visit succeeded in upsetting Turkish official and public opinion. Before leaving Washington for the region the president gave an interview in which he praised Özal, Mitsotakis and Vasilou as 'outstanding leaders'. But his failure to mention the Turkish Cypriot leader, Ralf Denktash, at the same time infuriated opinion in Turkey:

¹⁰⁵ On the author's return to UK after his service with coalition forces on PROVIDE COMFORT a senior officer told him on 3 October that UK military planners were concerned that a new coalition force, comprising British as well as other nations' forces, might soon be required for duty in Yugoslavia.

¹⁰⁶ Comment made in the presence of the author.

¹⁰⁷ Mr Solarz was one of the leading Middle East experts in the US House of Representatives. Briefing 8 July 1991. "Poised Hammer" plan meets sceptical public reaction'.

¹⁰⁸ This was the first presidential visit since Eisenhower came to Turkey in 1959.

In the days leading up to Bush's visit the Turkish press was full of articles expressing suspicion of the goals of US foreign policy.

The new initiative was seen as hostile to Turkey. The same source continued:

[The US maintains] what is seen as an anti-Turkish line on Cyprus [ever] since the Johnson letter.¹⁰⁹

On the president's arrival in Istanbul his US Secret Service team insisted on examining the rifles of the Turkish guard of honour before they would allow the welcome ceremony to begin. This check was made in view of the TV cameras during a live nation-wide broadcast. The same film was shown in all national TV news bulletins that day. Turkish opinion was outraged by the suspicion that members of the Turkish Armed Forces might assassinate the American president. Later parents of schoolchildren who had been obliged to line the route from the airport to welcome the president wrote letters to the newspapers protesting that they had not been consulted beforehand.

JUSTIFYING THE WITHDRAWAL

The coalition governments presented the withdrawal of forces as a safe and honourable act. On 12 July the Foreign Office in London issued a statement saying:

The refugee camps have been closed and the transit stations are almost deserted. Towns and villages are returning to normal. With our help water and power supplies have been restored, food distribution and basic sanitation systems established and health care brought to those in need. Many lives have been saved. The aims of our deployment have been successfully achieved.

Referring to the land and air forces remaining on alert in eastern Turkey the statement continued:

¹⁰⁹ Briefing 22 July 1991 'Poised Hammer; questions answered and unanswered' and 'Özal and Bush broaden links but public doubts remain'. The reference to the 'Johnson Letter' (see Note 8 p 88 above) was meaningful to every Turkish reader, but would have been incomprehensible to all but a few coalition officials and commanders.

R 687 remains in force. These troops will be prepared ... to go back in ... to protect the safety of the refugees and the UN personnel.¹¹⁰

Earlier, after discussions amongst the coalition states, and despite the US Administration's reservations¹¹¹, a plan emerged for a 2000-strong 'residual' air-land force to remain in theatre after the withdrawal of forces from northern Iraq.

THE RESIDUAL FORCE

To reassure the Kurds and the aid agency personnel it was eventually agreed that the 'residual force' would remain in-theatre ready to re-enter Iraq if the Iraqis renewed their attacks on the Kurds. The Turks, for their part, opposed the idea that coalition forces should remain in Turkey after the withdrawal from northern Iraq. The most vocal opponents of PROVIDE COMFORT 2 were on the Left of Turkish politics. Bülent Ecevit voiced suspicions that the operations was merely a cover for 'great power' manoeuvres, a 'revitalisation of Sèvres'. This accusation of 'anti-Turkish' feeling in the US revived the memory of the Senate resolution favouring (Christian) Armenia over (Turkic) Azerbaijan.¹¹² Despite these pressures the Turkish government gave a (renewable) six-month authorisation for the force to operate from Turkey. This plan, initially called POISED HAMMER, was officially named PROVIDE COMFORT 2.¹¹³

The coalition commander of the 'residual force' was Major General James Jamerson. The Turks insisted, however, that he be joined by a Turkish 'co-commander' or equal rank. (This was Major General Ibrahim Uyanik, Turkish Air Force.)

¹¹⁰ Bulloch and Morris p 44.

¹¹¹ Michael Smith 'US Pressed on rapid reaction force for Kurds' The Daily Telegraph 21 June 1991 p 13.

¹¹² In 1990 the US Senate had passed a resolution supporting Armenia in its confrontation with Azerbaijan. Turkish public opinion had been aroused.

¹¹³ POISED HAMMER was a HQ USEUCOM name. Its adoption was ruled out by the Pentagon on the grounds that the message it conveyed was 'too tough' and that it suggested a change of intent on behalf of the coalition. Accordingly PROVIDE COMFORT 2 was adopted, to stress the continuity of the commitment of the coalition states.

The Turks were determined to control the activities of the 'residual force'.¹¹⁴ On 18 July the Turkish government sent a diplomatic note to PROVIDE COMFORT 2 troop-contributing states declaring that it would authorise any future deployment of the force into Iraq. This arrangement would apply not only to the ground and air forces based in Turkey and aircraft operating from ships at sea.

The Turks also insisted on continuing the negotiations on the new MOU, designed to clarify the legal status of the additional forces. For the coalition commanders these discussions were tortuous. The task had earlier distracted commanders and staff from the planning for the withdrawal of many units from Turkey. These distractions continued. In the event these negotiations were never completed. Both sides tacitly agreed to allow them to continue until the problem was overtaken by the withdrawal of all coalition ground forces in late September.

The land based air component of the residual force, comprising a squadron of F-15s and one of A-10 fighters, operated from Incirlik. Support helicopters were stationed at Incirlik and at Batman. A US Navy carrier group (USS *Forrestal*) was to remain in the eastern Mediterranean to provide extra air support if required.

The ground forces and attack helicopters were stationed at Silopi near the Turkish-Iraqi border, 5 Km from Zakho. This component was known as the Allied Ground Combat Force (AGCF). This force was a composite infantry battalion with strong companies of British (B Company 40 Commando RM), French, US, and Dutch infantry. The AGCF was commanded by Lt Col John Kidder of the 6/502 Infantry, US Army. Attached, but under national command, was a mechanised infantry company from the Turkish Army. The total strength of the 'battalion' was 1750. Attack and support helicopters were allocated to support this force. The coalition commander in Silopi was Col Butch

¹¹⁴ Briefing 29 July 1991 'Turkey sets Ground Rules for Poised Hammer'. Also Bulloch and Morris p 46.

Whitehead, US Army. He also worked with a Turkish 'co-commander', of equivalent rank.

Conditions inside the camp at Silopi were not ideal. The space available for so many men to live and take exercise was limited. The Turks would not allow coalition soldiers to leave the base except on duty. With temperatures reaching 120° F at noon, and the suffocating dust, most soldiers spent much of their time under canvas. The air conditioned US 'temper-tents' were essential. Members of the AGCF frequently watched Turkish military posts exchanging fire with PKK guerrillas on the high ground 3 miles away.

Coalition air forces continued to fly daily combat air patrols north of the 36th parallel in Iraq, and conduct helicopter reconnaissance flights over the security zone. At times the helicopters would land and soldiers would enter villages and question local people on conditions in their area. The MCC continued to operate from its house in Zakho and its base in Silopi. Its members carried out separate reconnaissance patrols in wheeled vehicles and in helicopters to meet Iraqi officials and Kurdish leaders and to monitor conditions.

The UN plan for monitoring conditions in northern Iraq centred on the 'UN Guards' detachments in the north of the country and the R 687 weapons inspection regime (UNSCOM) elsewhere in Iraq. Officers of the 'residual force' in Turkey received reports originating from these UN sources.

The Turks had carried out several 'seek and destroy' expeditions directed against PKK 'training camps' on Iraqi territory - to the east of the PROVIDE COMFORT security zone - in May and early June. In late June the Turkish military forces had conducted a major cross-border operation against the PKK in north-east Iraq. 20,000 men took part and the operation lasted four days. The Turks also announced that they were imposing a 10-mile wide 'buffer zone' on the Iraqi side of the border

and that Turkish forces would patrol that zone to prevent unauthorised border crossing and smuggling.

The KDP in Iraq publicly supported these moves and promised the Turks military support against the PKK. (Talabani criticised the Turks for carrying out the raid.) Mohsen Dizai, the KDP spokesman in Ankara, warned the PKK that they should 'either go to your own region [country] or cease the attacks'. The Turkish authorities then promised to send 10,000 tonnes of food and medical supplies to the Kurds in northern Iraq.

From 4-15 August the Turkish armed forces conducted a second large air-land operation against the 'guerrilla camps' in Iraq, this time in the remote 'three borders' in the north east. 132 air sorties were flown 20,000 troops reportedly took part in the attacks. Further Turkish attacks on alleged PKK bases in northern Iraq took place in October 1991, January 1992 and thereafter.¹¹⁵

US AND SOVIET POLICY DURING THE KURDISH CRISIS

As stated above¹¹⁶ the Soviets cooperated with the Western states in the actions taken against Iraq during the Gulf crisis and in the months that followed. They nonetheless presented their policy as independent of the Western states, the measured response of a super-power rather than the compliance of a weakened adversary. Their show of independence was seen in opposition to certain proposals for the treatment of Iraq after the Gulf War. They opposed the idea that Saddam should be prosecuted for war crimes. They also opposed the use of force to achieve Iraqi compliance with the Ekeus mission (UNSCOM).

In voting in favour of R 688 the USSR continued its policy of cooperating with the US to restrain Iraq. At the time of 688, however, there was no indication that the next move would be a military intervention into northern Iraq. When that intent became clear the Soviet

¹¹⁵ Laizer Martyrs p 44.

leadership was quick to warn the UN not to authorise any violation of Iraq's sovereignty on behalf of the Kurds.¹¹⁷

The consensus is that Soviets felt compelled to comply with the Western states' policy towards Iraq in 1991 because of the grave political and economic crisis in the USSR. Domestic and international political interests led the government to demonstrate the remnants of superpower independence: this was seen in Soviet insistence that the terms imposed on Iraq after the war should not be too harsh. (It was only when Saddam hailed the coup attempt against Gorbachev (August 1991) that the Soviets ceased to offer any resistance to US policy on Iraq.)

The US sought Soviet cooperation on the wider regional peace process. Again the Soviets felt bound to comply but nevertheless took occasional opportunities to give discreet support to local actors who might oppose, or delay, any US plans. The most obvious of these was Syria, a long-standing opponent of Iraq's Baath regime. Syria had benefitted economically and diplomatically from its membership of the coalition against Iraq. Syria's priority was to counter Israel's strong, and uncompromising, diplomatic position over the occupied territories, including the Golan Heights. Syria withheld its support for the US initiative until it had received assurances on the outcome of the process. One key development was Syria's provisional agreement, in mid July, to participate in a conference even though there was no pre-agreement of 'land for peace'. The Soviets achieved the final confirmation of Syria's participation at Madrid during Foreign Minister Pankin's visit to Damascus on 18 October.¹¹⁸ The US - keen to encourage Soviet cooperation - gave the Soviets the credit for achieving Syria's support for the process.

¹¹⁶ Chapter 6.

¹¹⁷ See Foreign Minister Bessmertnykh's 10 April letter to the Secretary-General of the UN.

¹¹⁸ Pankin p 220.

Shamir's *Likud* government was committed to the building of new settlements in the occupied territories. One of the consequences of greater Soviet cooperation with the West after 1985 was the loosening of the restrictions on the emigration of Soviet Jews from the USSR. The flow of immigrants into Israel - 185,000 in 1990 and 145,000 in 1991 - produced a housing shortage. The *Likud* housing minister was the former general Ariel Sharon. The development of new residential settlements in the occupied territories brought Israel into conflict with the US during 1991. Israel was also opposed to a comprehensive approach, preferring a plenary conference lasting a single day followed by direct bi-lateral negotiations with the Arabs. Israel objected to a prominent role for the UN in the exchanges and would make no pre-conference commitment to exchange 'land for peace'.¹¹⁹

Later in the year Gorbachev conceded three long-resisted US demands: support for the US in its campaign to repeal the 1974 UN General Assembly's 'Zionism is Racism' draft resolution, authorisation for direct flights for emigrants from Soviet airports to Israel, and the USSR's resumption of diplomatic relations with Israel, previously terminated during the 1967 '6-Day War'.¹²⁰

Soviet compliance with US foreign policy objectives was not confined to the Gulf. There was also cooperation over Afghanistan following the Soviet withdrawal of its military forces in 1989. In 1991 the US and the USSR agreed to cease arms supplies to the rival factions from January 1992, and jointly appealed to other states to cease supplying the factions with military hardware and supplies.

In the months of March, April and May US diplomacy in the Middle East concentrated on achieving a rapprochement between Israel and its neighbours.¹²¹ There were distractions and interruptions.

¹¹⁹ Robert E Hunter 'US Policy after Iraq's Invasion of Kuwait' in Robert O Freedman pp 66-7.

¹²⁰ Robert O. Freedman p 117.

¹²¹ Marvin Feuerwerker 'Israel, the Gulf War and its Aftermath' in Robert O Freedman p 245.

The Kurdish crisis was one such early distraction. But it did not prove to be an obstacle to US-USSR cooperation in Middle East diplomacy, nor to the results of that diplomacy. Indeed that cooperation on the larger issues ensured that events such as the Kurdish crisis were managed consensually. Later these efforts developed into preparations for a peace conference to be held later in the year. (This became the Madrid conference held in October.)

Despite its own lead in the diplomatic effort the US Administration was anxious to encourage and strengthen cooperation of the USSR. From April to October 1991 the US made great efforts to be seen consulting the Soviets, as it had before the Gulf War. The Soviets responded by adopting a 'balancing' policy: cooperation with the US in major issues but presenting an 'independent' position on certain details. They welcomed the international humanitarian efforts on behalf of the victims of the fighting in northern Iraq. They also took pains to remind the international community of the importance of Iraqi sovereignty.¹²² Above all the Soviets encouraged the Kurdish leaders and the Baath regime to come to a negotiated settlement so that the US-led intervention would be terminated as soon as possible. The Soviets could not prevent the establishment of PROVIDE COMFORT 2, but they did not support it. The prospect of the permanent presence of US land and air forces, poised on the border of Iraq, was not attractive to the Soviet leadership.¹²³ During the late summer the efforts of both states, working to similar but not identical objectives, brought the different parties to a point where a comprehensive conference could be held, under their joint chairmanship.¹²⁴

¹²² See Vitaly Churkin's comment p 226, above.

¹²³ Aykan p 349.

¹²⁴ For an account of the US-Soviet diplomatic cooperation over Madrid see Pankin 'The Last Hundred Days' pp 212-213. According to this account the future co-chairmen of the Madrid conference - Pankin and Baker - worked closely together, and on an equal basis. Soviet participation was much more than a face-saving effort. The US-USSR Summit held in Madrid on 28 October was the culmination of this joint diplomacy. Pankin p 225.

CONCLUSIONS

The conclusions of this chapter are:

- The humanitarian relief operation was successful: it showed flexibility, economy and (eventually) good coordination between coalition forces and the aid agencies.
- There was an anomaly in the international response to the crisis. The coalition undertook a humanitarian intervention in northern Iraq, despite the protests of the Iraqis. The UN launched a humanitarian operation throughout Iraq, based on the consent of the authorities.
- The UN Secretariat sought the consent of the regime in order to secure Iraq's cooperation in a longer-term humanitarian operation, designed to assist victims of repression throughout Iraq. The UN accepted the coalition states' proposal for the UN guards scheme to provide protection after the coalition forces' withdrawal.
- The coalition's exit strategy eventually had 3 parts: the on-going humanitarian programme, the UN guards unit and the 'residual force'. The guards plan was presented as a guarantee for the future safety of the Kurds (and other minorities). In fact the UN guards had a very restrictive mission.
- The coalition forces' handover of facilities and activities was delayed by the reluctance of the UNHCR (and the NGOs) to accept full responsibility for the humanitarian part of the mission.
- The Kurds' dealings with the Baath also threatened to undermine the intervention operation. As it turned out the Kurdish groups could not reach a settlement with the regime. Notwithstanding Kurdish disunity, shown at Shalaqwa, the coalition forces were able to extract themselves from northern Iraq when their governments decided that the limited mission had been accomplished.
- The Turkish authorities had an ambivalent attitude to PROVIDE COMFORT 1 AND 2. The operation achieved several useful purposes. It persuaded the Kurds to remain inside

Iraq and not cross into Turkey. It showed Turkey's willingness to cooperate with the Western states. But it had several drawbacks. It encouraged Turkish Kurds to assert their own rights and made it easier for the PKK to establish camps in the Iraqi border area. It tempted Western states to pursue their own interests versus Iraq from Turkish soil. It threatened Turkey's good relations with Iran and the Arab states. It exposed the unpopular Özal administration to accusations of subservience to the West.

- For the US the end of the Gulf war and the weakness of the USSR provided an opportunity to launch a Middle East 'peace process'. The Kurdish intervention was an unavoidable interruption which had to be managed alongside the higher-priority (and regional) 'peace process' policy. For the Soviets the Kurdish intervention was an opportunity to demonstrate a measure of independence from the US policy while actively cooperating with that policy in all the essentials.

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Part 3 - Analysis

CHAPTER 10

THE INTERVENTION - ANALYSIS OF LEGAL AND MILITARY SIGNIFICANCE

This Chapter continues the discussion of the status of these events as a precedent in the development of international law and politics in the area of 'intervention'. Specifically it identifies what new ground, if any, was broken in the international response to the Kurdish Crisis. The areas under consideration are international law and the conduct of military 'humanitarian' operations. This analysis may assist those who wish to predict the relevance of methods and outcomes in this crisis for subsequent and future crises. This study does not, however, address those questions directly.

This Chapter also provides a limited military analysis of the intervention operation.

SOME POINTS ON R 688

The analysis of the text of R 688 (Chapter 7, above) identified several points of interest:

- no determination, under A 39, of a 'threat'
- neither Chapter VI nor Chapter VII invoked
- mandate to the Secretary-General was to investigate suffering and coordinate the work of the aid agencies
- majority, not unanimous, decision in the Security Council, with evident reservations from some leading states
- no authorisation for intervention but no subsequent discussion of the intervention which occurred.

As argued in Chapter 7 above the Security Council decided to treat the Kurdish crisis as an exceptional case, even before there was any indication of a coalition intervention operation. The conduct of the

Secretariat after the intervention took place supports this conclusion. So does the decision of the Council not to resume formal consideration of conditions on the northern borders of Iraq after the intervention.

The Security Council members' intention to deal with the crisis as a pragmatic response did not necessarily succeed, however. The practice of states (i.e. 'custom') is an essential element in the development of international law. Whatever representatives and political leaders may have said (and hoped) at the time, the international response to this crisis has left a mark. Even after the passing of more than six years no one can say, definitively, what significance will be attributed to these events and decisions; their status as a precedent for the future is still the subject of active debate.

EXPERTS' COMMENTS ON THE SIGNIFICANCE OF THE INTERNATIONAL REACTION TO THE KURDISH CRISIS

The text of the Resolution and the debate in the Security Council reflected a near-consensus that Iraq should be condemned for the brutality of its repression of the Iraqi Kurd population. But representatives were divided on the other issues: some demanded international action against Iraq for its human rights abuses and for intervention to deal with the alleged spill-over of the conflict into neighbouring states. Others emphasised Iraq's right to act as it wished inside its own borders.

The same division is found in the interpretations of legal experts, some of whom argue from a normative perspective, some from a value-free position. The more liberal commentators argue that the actions taken to protect the Kurds were part of a shift towards a greater importance for human rights in the development of international law. More conservative authorities note that the international response did nothing to disturb the primacy of sovereignty. A middle group saw the matter as unresolved at that time: international law might move in either direction.

The majority of those states represented at the Security Council debate was prepared to approve some form of action against Iraq - the coalition military operation had not been devised at that stage - as an 'exception' to the normal respect for sovereignty. The formula adopted was the authorisation for the Secretary-General to mobilise international aid agencies (and diplomatic pressures) to deal with humanitarian crisis and defuse the transborder effects. The difference lies between in the expectations reflected in the opposing views: will this exception become the legal norm or will it remain as a pragmatic episode, with limited significance for the future ? Do the commentators expect that the Security Council will authorise subsequent operations - perhaps on the basis of further ambivalent, 'exceptional' mandates, or not ?

The intervention operation itself has attracted additional comments. Political comment on the significance of the intervention varied between cautious enthusiasm (from Western leaders) to outright opposition (from a number of Non-Aligned states). The G7 states issued a statement after their heads-of-government meeting in July 1991 explicitly endorsing the conduct of the PROVIDE COMFORT coalition and 'urged to UN to support similar action wherever the circumstances require it'.¹ Legal commentators observed that at the time of the intervention the international community was prepared to give tacit consent to this operation. But there is disagreement on the implications of these events and of actions taken (or not taken) in the Security Council and in the operational area of northern Iraq.

The weight of academic opinion on R 688 and the intervention which followed was that neither of them

¹ Freedman and Boren in Rodley p 83. This statement, therefore, went beyond 'endorsement' of the on-going operation. The G7 proposed that humanitarian intervention should be seen as a legitimate tool for the international community to use, when appropriate, in future crises.

This idea is also found in the use of variants on the 'safe haven' formulation - viz safe areas, humanitarian protection zones, safe zones - declared by the UN in subsequent crises. K Landgren 'Safe zones and international protection; a dark grey area' International Journal of Refugee Law Vol 7 No 3, 1995. See also R Gardner International Relations and the Use of Force (London: Brassey's for the RIIA, 1991-2) Adelphi Paper 266 and Walter Clarke and Jeffrey Herbst 'Somalia and the Future of Humanitarian Intervention' Foreign Affairs Vol 75 No 2 March/April 1996.

is the care taken, even by the US, to assert the exceptional nature of the case.

The opinions of the opposing groups of commentators are as follows. Their starting points vary: some restrict themselves to a legal interpretation of decisions and events, others mix legal assessments with more 'political' predictions.

For the liberals the intervention does represent a shift in international practice, notwithstanding the 'exception' language. This forecasts that intervention will become - in selected cases - a legally acceptable means of averting the abuse of human rights deserves careful consideration. It forms part of a body of opinion which foresees (and welcomes) a controversial 'world society' agenda for international law and politics.

The traditionalist, non-interventionist school of opinion is long-established: it denies that there is (or should be) any right for the UN (or any state) to intervene in a state's internal affairs, even to protect human rights. It rests its case on A 2(7), on the declarations of the UN General Assembly² and on the practice of states, before and since 1945.

Adherents of the traditional view also cite the practice of states, even Western states, over time:

I submit that there is not a single case in the entire post-war era where one state has intervened in another for the *exclusive* [emphasis added] purpose of halting mass-murder, much less any other gross violation of human rights Precisely because state practice is at best ambiguous, it provides very flimsy support for any claim that the restraints of the Charter have been superseded by a new consensus concerning the use of force to protect human rights.... Even liberal democratic states have seemed reluctant

² For example GA R 1514 restates the prohibition on intervention, except in cases where a people is denied self-determination (i.e. is under 'colonial or alien rule').

openly to impute legitimacy to humanitarian intervention.³

Other authorities go farther, denying the development of a right of intervention and identifying apparent departures from the non-intervention norm as 'exceptional'. A leading conservative wrote as follows, following the Grenada operation in 1983:

Human rights violations are just not considered as serious enough by the majority of states and the principle of territorial sovereignty ... takes preference in the views of most. This is because human rights violations are all too common a phenomenon in most states and to admit a right of humanitarian intervention would be far too precarious for the independence and security of such states. A blind eye turned to such advantageous interventions such as those in East Bengal (neither the SC nor the GA pronounced on the legality of India's intervention and SCRs 307 and GAR 2793/71 both limited themselves to calling for a cease-fire, withdrawal of troops, actions for the refugees, and exhortations for the well-being of the civilian population) and Uganda (the SC did not debate this at all)... is not the same as admitting a right in law to intervene...and those actions were defended by the perpetrators as self-defence...The repression of a minority (even a majority) is so common and openly practised that it cannot be taken as contrary to customary international law.⁴

Some traditionalists oppose even altruistic 'interventions' on the grounds that such acts have often been motivated by self-interest.⁵

³ Tom Farer 'An Inquiry into the Legitimacy of Humanitarian Intervention' in LF Damrosch and DJ Scheffer (eds.) Law, Force and the New International Order (Boulder: Westview 1991), pp 192-3, 195, 198.

⁴ L Doswald-Beck 'The Legality of the United States' Intervention in Grenada' 31 NILJ pp 355-385.

⁵ BS Chili 'Towards a Third World Approach to Non-Intervention: Through the Labyrinth of Western Doctrine' 20 Indiana JIL (1980) 243 *et seq.* and Sohail H Hashemi 'Is There an Islamic Ethic of Humanitarian Intervention' Ethics and International Affairs Vol 7 1993.

Despite Chili's accusation that 'humanitarian intervention' is often a disguise for great power imperialism it is well to recall that Indonesia's occupation of East Timor in 1975 is an example of a Third World state using this as a pretext for aggression. RS Clark 'Humanitarian Intervention: Help to your Friends and State Practice' 13 Georgia J Int & Comp L p 213.

Objections to any 'right' of intervention are made on practical as well as legal grounds. A notable proponent of this view, Ian Brownlie, based his argument on custom, and particularly on state practice⁶ and centuries-old historical precedent. Writing in the 1970s his objection to the emergence of a 'right' was that it would be abused:

My position is that humanitarian intervention, on the basis of available definitions, would be an instrument wide open to abuse... as a matter of degree, the definitions of humanitarian intervention are woefully slack. Moreover, the safeguards attached to the definition seem unworkable. Does a force sent in to halt racial oppression or the practice of slavery remain until the legislative and administrative structure maintaining the particular condition have changed ?⁷

The sticking point for non-interventionists is the insistence that the equality and sovereignty of states are not subject to tests of legitimacy, however the states behave. To admit a right of intervention on the basis of a judgement about 'legitimacy' of rule would be to introduce a normative and cultural element which is, arguably, indefensible and impracticable. A normative formula for legitimacy incorporated into international law would transform the international system. States' legitimacy would depend on their delivery of 'good government'. It is hard to see how states could agree on criteria.

There is, however, a significant body of legal opinion which take a more permissive view of intervention, predicting that a 'right' exists, or will soon exist. This view is appears to be gaining support.

⁶ 'It is clear to the present writer that a jurist asserting a right of forcible humanitarian intervention has a very heavy burden of proof. Few writers familiar with modern materials of state practice and legal opinion on the use of force would support such a view ...'
Ian Brownlie 'Humanitarian Intervention' in JN Moore (ed) Law and Civil War in the Modern World 1974.

⁷ Ian Brownlie 'Thoughts on Kind-Hearted Gunmen' in Lillich p 146.

Howard Adelman⁸ agrees that 'humanitarian intervention'⁹ conducted under the authority of the UN can escape the prohibition under A 2(7). Serious abuses of human rights, on a large scale are, he argues, increasingly seen as outside 'essential domestic jurisdiction'. But he notes that there can be no specific UN authorisation for the *use of force* unless there is a finding of a threat to international peace and security.¹⁰ If these conditions exist, he argues, there is no need for any special category of 'humanitarian intervention'; the existence and recognition of a threat is sufficient for action under the established practice, and is unquestionably faithful to 'the purposes and principles of the Charter'. He further argues that the 'interdependence' of states makes strict observance of sovereignty obsolete. Thus the reinterpretation required is not A 2(7) but what consists a 'threat to international peace and security'. If the Council is prepared to declare a threat to exist in every case (or nearly every case) where there is mass abuse of human rights - and irrespective of trans-border effects - and if it will authorise forcible intervention in such cases, then a right of intervention will have been created.

Still more permissive is the interpretation offered by Fernando Tesón.¹¹ He finds a justification in law for humanitarian intervention - defined as an action to protect human rights - for any significant breach of human rights inside a state. Basing his argument on 'natural right' theory he defines any state which abuses human rights as 'illegitimate' and as such can no longer claim the rights of sovereignty: 'government that engages in substantial abuses of human rights betrays the very purpose for which it exists and so

⁸ 'Humanitarian Intervention: The Case of the Kurds' IJ Refugee L Vol 4 No 1, January 1992, pp 4-38.

⁹ In this study the term 'humanitarian intervention' can mean action to relieve famine and disease (i.e. a response to a problem of welfare) OR an action to protect human rights (i.e. a response to a problem of violence: from discrimination through intimidation to genocide). Adelman uses the term restrictively to mean 'action to protect human rights'. Howard Adelman 'Humanitarian Intervention: The Case of the Kurds'. 4 IJ Ref L (1992).

¹⁰ Adelman p 25.

¹¹ Fernando Tesón Humanitarian Intervention: An Inquiry into Law and Morality (Dobbs Ferry, 1988) p 4.

forfeits not only its domestic legitimacy but its international legitimacy as well.'

Christopher Greenwood¹³ takes the view that before Rs 221, 417, 418 and 688 sovereignty and non-intervention were firmly established in customary law: human rights were under 'domestic jurisdiction'. Even systematic abuse of human rights would not have been regarded as grounds for intervention inside a state. Today it is academics, not politicians or diplomats, who claim that the protection of human rights justifies intervention. He notes that states undertaking unilateral intervention have invariably justified their actions on the grounds of self-defence, citing trans-border clashes and migrant flows.¹⁴ They have not chosen to justify their actions on humanitarian grounds. At the same time it is clear that international public opinion is showing more support for human rights issues and less respect for the validity of a strict interpretation of 'sovereignty'.

Furthermore Greenwood says it is possible to trace a pattern from R 221 through to R 688 in which the Security Council has, selectively, endorsed interventions. These endorsements were at times tacit, at times explicit. In the multinational intervention in northern Iraq Greenwood says that the Council went to the brink of declaring that systematic abuse of human rights (accompanied by trans-border effects) created a threat to international peace.¹⁵ Nevertheless the change he identifies is within a restricted area: it is 'intervention, not to change borders but to save lives'.¹⁶ Greenwood does not see a trend towards a broader legitimising of intervention, to promote 'good government' or 'democracy', as the most liberal commentators argue.

¹³ Christopher Greenwood 'Is there a right of humanitarian intervention?' The World Today March 1993.

¹⁴ The exception to this generalisation is the ECOMOG intervention in Liberia. The participating states justified their action not only on 'self-defence' but also on humanitarian grounds. See p 49, above.

¹⁵ This pattern can also be traced in the Security Council's response to the later crises in Somalia and Haiti. Rs 792 and 940 contain even clearer language stating that systematic abuse of human rights, or serious disorder causing widespread misery to a population, justifies intervention, especially where, as in Haiti, there are significant trans-border effects.

¹⁶ Words used by Sir David Hannay (UK Permanent Representative) in the Security Council debate on R 688. See p 168, above.

Richard Gardner says that the state of international law regarding 'intervention', following the Kurdish crisis, is that the right of [forcible] intervention has been recognised in the absence of Security Council authority. Furthermore the Council is more likely to act against a state which conducts a systematic programme of repression against all or part of its population if it can find a "threat to international peace and security" arising out of the repression. A finding of this kind would be required for the Council to the full range of Chapter VII enforcement measures. But he predicts that the Council will not regard the "international threat" as an essential requisite for action. Neither is the Council likely to take, or authorise, action involving the use of force on human rights grounds alone.¹⁷

It may be that it was the special circumstances which made the international community act to end the repression in northern Iraq. These circumstances include not only Iraq's international status as a rogue state but also the guilt felt by political leaders (and sections of public opinion) at past neglect of the legitimate rights of the Kurdish people. Wheeler follows Mayall in attributing the decision to intervene to 'circumstances' rather than 'human rights abuse':

had the repression of the Kurds taken place in any circumstances other than as a result of the Gulf War it is inconceivable that Western governments would have responded to pressures from public opinion for humanitarian intervention.¹⁸

¹⁷ Richard Gardner Adelphi Paper 266 p 72.

¹⁸ Nicholas J Wheeler 'Pluralist or Solidarist Conceptions of International Society; Bull and Vincent on Humanitarian Intervention' Millenium: Journal of International Studies 1992, Vol 21 No 3 p 483.

Richard Lillich¹⁹, a determined advocate of a right of intervention, has also drawn attention to what he called the 'steady recognition' of such a right. He claims that the Security Council has accepted, through a succession of resolutions, that some recent humanitarian interventions were justified by circumstance even when they were not justified in law. He argues that although A 2(4) and 2(7) of the UN Charter made it 'very doubtful' that a right of forcible intervention could be said to exist, reason dictated that there were limits to the rule of non-intervention, as laid down by the UN Charter to protect state sovereignty.²⁰ He went on to propose 'objective criteria' which could guide states considering an act of humanitarian intervention.²¹ In his view a right of intervention had been established in customary law pre-1945 and that it had 'survived the Charter'.²² Adding to Greenwood's list he cites the Council's decisions with regard to the Lockerbie suspects²³ and in Somalia.²⁴ Lillich describes humanitarian intervention as a 'permanent exception' to the rule of non-intervention. In his view the Council has moved forward, carefully describing each breach of the rule of non-intervention as

¹⁹ Richard B Lillich Humanitarian Intervention and the United Nations (Charlottesville: University of Virginia Press, 1973).

²⁰ Other authorities who argue for a more permissive interpretation of a right of humanitarian intervention are: D'Amato International Law: Process and Prospect 1987, Michael Reisman 'Coercion and Self-Determination: Construing Article 2(4)' AJIL 1984, Luban 'Just War and Human Rights' Philosophy and Public Affairs 169 1979-80, Lea Brilmeyer Justifying International Acts (Ithaca: Cornell Univ Press) 1989.

²¹ Lillich lists the following: the immediacy of the violation of human rights, the extent of the violation, invitation from the de jure government, degree of coercive measures employed by the intervening forces, relative disinterest of the intervening state. R Lillich 'Forcible Self-Help by States to Protect Human Rights' (1967-8) 53 Iowa LR p 325.

²² Dixon and McCorquodale Note on p 495.

²³ The '*travaux preparatoires*' of the UN founding conference in San Francisco clearly show that provision for judicial review of the actions of the Security Council were specifically ruled out in 1945. There is, however, a possibility that the ICJ will be called on to rule on the legality of an 'interventionist' resolution. The Court has already issued a preliminary judgment on just such a challenge, by Libya, over the requirement to extradite the Lockerbie suspects. A case would rest on first, establishing the jurisdiction of the ICJ over Security Council resolutions, and then on the duties of the Security Council under A 24(1) set against the obligation of the Council, in A 39, to take Chapter VII action 'in accordance with the purposes and principles of the [UN]'. Arguably 'intervention' is not 'in accordance'.

²⁴ See R 792. In the debate at the time of the adoption of this resolution the US delegate made it clear that his government saw the terms of 792 as a pattern for future actions: 'the international community is taking [steps to provide a] strategy for conflicts in the post Cold War world'.

'exceptional.'²⁵ Lillich believes that the Council is, in effect, redefining A 2(7) step-by-step. He also notes the increasing practice of the Council in imposing more control and referral measures as a safeguard against 'exceptional' measures being misused.²⁶

Sydney Bailey and others have noted the existence of a body of international law which complements and arguably extends the human rights provisions of the Charter. International Humanitarian Law (IHL) - for example Common Article 3 of the 1949 Geneva Conventions - addresses the rights and duties of those caught up in war and specifies the rights of access of impartial humanitarian bodies to the war zone. IHL is based on treaties, some of which pre-date the Covenant of the League (and the UN Charter); they therefore represent a source of law which may be regarded as independent of, albeit supportive to, the Charter.²⁷ The Security Council and the ICJ have both commended the standards set by IHL and quoted its legal principles with approval. The treaties themselves are now widely regarded as having the status of custom. It is possible that the internationally agreed standards of treatment of individuals caught up in war might, by degrees, be used to set standards for the humanitarian treatment of individuals under conditions of peace.²⁸ There is already considerable Security Council practice to support this line of development, even

²⁵ This caveat is also found in R 688 and in R 940, which authorised the intervention to restore the Aristide government to Haiti.

²⁶ It is also of interest that the later 'interventionist' resolutions - especially R 940 - have imposed timetables, reporting requirements and other control measures whereby the Council exercised its right of oversight of the operations it authorised. This reassures the non-interventionist majority of the UN's member-states.

²⁷ The 'Nicaragua' judgment referred to the body of IHL which pre-dated the UN Charter. It stated that the earlier treaties were the foundations of IHL and were complimented by subsequent international agreements since 1945. Whereas IHL undoubtedly applies to UN peacekeeping forces operating in war zones the UN has not so far agreed to give a formal undertaking that its peacekeepers will abide by IHL.. Sydney D Bailey The UN Security Council and Human Rights (London: Macmillan, 1994) p 59.

²⁸ The argument is strengthened by the knowledge that consideration of UN intervention on the basis of a threat to peace arising from a mass abuse of human rights often occurs when the state concerned is torn by civil war. All wars, including civil wars (and the forcible operations carried out by UN 'blue helmet' forces) are bound by the rules of IHL. In the Kurdish crisis, for example, the rules of IHL were applicable throughout the fighting between Iraqi government forces and the mostly-Kurdish forces which opposed them.

Judge Richard Goldstone, the chief prosecutor in the recently established International Tribunals on Rwanda and Former Yugoslavia has spoken in support for the extension of international judicial competence into the field of IHRL. The proposed International Criminal Tribunal would allow multi-national authorities to prosecute those guilty of greater or lesser 'crimes against humanity' which were committed in a time of peace. (Interview with Judge Goldstone, Vienna, June 1995.)

though the actions taken by the Security Council have not always been consistent.²⁹

Rodley goes on to discuss principles, found elsewhere in International Law which might serve as a useful guide to consideration of future interventions. These are conditions of 'necessity' and 'proportionality' which are the long-established guides to what is, and is not, legitimate in acts of self-defence. Although first laid down in the pre-Charter era they have always been used to interpret A 51.³⁰ Further conditions could be that forcible intervention operations should be multi-national, should be specifically authorised and supervised by the Security Council and should involve the use of force only after a 'trial of all other methods'. Finally Greenwood proposes that 'limited means, limited objectives' should be the rule: participant states should concentrate on relief of suffering. Forcible intervention to protect human rights should not extend to overthrowing governments or re-drawing state borders.³¹

INTERVENTION - THE FUTURE ?

Looking ahead and sounding a more assertive note, Adam Roberts has suggested that the Western states, confronted by manifest abuse of human rights, may soon be faced with a stark choice of standing idly by, entering the fray on highly restrictive rules of engagement, or making 'humanitarian war'. He quotes ex-President Reagan:

the world's democracies must enforce stricter standards of international conduct. Is this not a moral cause and a great undertaking as profound as the struggle against totalitarianism ? What I propose then is nothing less than a humanitarian

²⁹ The observation refers to the willingness of the Security Council to impose enforcement measures on a state like Libya and its refusal to do so in the case of South Africa or Israel. Bailey pp 88-99.

³⁰ The importance of necessity and proportionality were first recognised in the early 19th century *Caroline* case and subsequently in the *Nicaragua* judgement of the ICJ: '...well established in customary international law ... whereby self defence would warrant only measures which are proportional to the armed attack and necessary to respond to it' *Nicaragua vs United States of America*, Merits, Judgement, ICJ Reports 1986, para 176.

³¹ Greenwood 'New World Order' p 177.

velvet glove backed by a steel fist of military force...³²

Roberts speculates that Western states may take advantage of opportunities presented by future crises to deal with rogue states: 'after PROVIDE COMFORT came POISED HAMMER; after UNOSOM came the US Marines'. He summarises his conclusions thus:

- The Security Council did not recognise any right of unilateral intervention on humanitarian grounds.
- The Security Council did recognise that there was a [potential] threat to international peace and security from the refugee flows.
- As the repression followed directly from a war the victors might have felt some responsibility - recognised in customary law - for security within the defeated state.
- Whereas the intervention was multi-national, the key decisions [after 688] were made by states, not the UN. The US, Britain and France created the safe havens and did so by 'stretching the elastic of the Security Council resolutions to breaking point'.³³
- It allowed the victors to avoid answering the question of what form of government should be set up in northern Iraq.

It gave comfort to the countries which organised itSubsequent events showed it to be more than an isolated episode.

He concludes by warning against too much academic speculation. What John Vincent called 'the empire of circumstance' will probably determine future events, more than anyone's prescription.

Then there is the more challenging view, expressed by Stanley Hoffmann and others, that leading states have an obligation to persuade the rest of the international community to take 'every opportunity for morally justified intervention'.³⁴ He argues that such

³² Speech to the Oxford Union 4 December 1992. Quoted in Adam Roberts p 448.

³³ Roberts p 438.

³⁴ Stanley Hoffmann p 49.

initiatives will create legal and political precedents and, despite the inevitable failures (like Somalia), the result will be a shift in international practice in favour of humanitarian interventions to stop genocide and lesser catastrophes, natural and man-made. Fred Halliday concludes that International Relations needs to redefine its understanding of sovereignty and develop its analytical concepts.³⁵

There are, on the one hand, many voices calling for the international community to act more decisively to defend people against their own repressive governments or when their government appears unable or unwilling to protect its citizens. The essential element of such interventions would be the use of force: that is, a proportional and necessary degree of force. This applies in particular in states ruled by regimes which came to power, or hold power, by force alone. No government should terrorise its citizens. Thus a *moral* case can be made for repressive and unrepresentative regimes to be open to external, forcible measures and not have protection from the rights of sovereignty. The next step would be to proclaim 'a right of good government'. Intervention to protect human rights accords with the many international declarations, charters and commissions which have proclaimed the existence of certain 'inalienable' rights.

On the other hand there is a fundamental problem in the attachment of so many states to non-intervention, a concept which is firmly established in customary law. This contradiction was evident in the policy of the Western powers towards Iraq in 1990 and 1991. As Adelman has pointed out, the US, the UK and France created a coalition to defend Kuwait's sovereignty against Iraq and then formed another to violate Iraq's sovereignty in order to protect a dissident minority of Iraqis.³⁶

³⁵ 'There are some elements of discomfort and anomalies in what occurred for all three IR paradigms, as there are also for feminism and even more so, for post-modernism. In a whole range of issues of analysis, ethics, the [Gulf War] provided a major challenge to IR: nowhere more so than on the ethical question of sovereignty, the new precedent for intervention, and the need to redefine our conception of just intention'.

Fred Halliday Islam and the Myth of Confrontation: Religion and Politics in the Middle East (London: IB Tauris, 1996) p 103.

As a tentative prediction, however, it is possible to say that International Law appears to be evolving in the direction of providing protection for those suffering from the mass abuse of human rights. At best there is the beginning of consensus on a *limited* right of intervention, (or a 'permanent exception' permitting intervention) but only 'in very qualified ways and by properly legitimised actors³⁷'. Even so the necessary conditions for multinational intervention are unclear and, as already discussed, controversial.

Perhaps a likely course of events is the emergence, through practice, of some conditions which will come to be regarded as sufficient to permit intervention (including the use of force), as tacitly acceptable exceptions to the principle of 'non-intervention' as found in international law. Clearly the significant body of opinion which emphasises 'non-intervention' would ensure that the conditions were restrictive. These conditions would reassure those who are suspicious of granting 'rights' of intervention where, arguably, none existed before. Furthermore it would go some way to satisfy proponents of the narrow interpretation of A 2(7). But what should these conditions be?

The first possible condition appears to be that the abuse of human rights must be serious and affecting many people, perhaps all or a significant proportion of the population, not small groups.³⁸ Greenwood distinguishes the slaughter of the retreating Kurds in 1991 from the violations of individual rights by the Noriega regime in Panama.³⁹

³⁶ Adelman p 4 et seq. Adelman also points out that Allan Gerson, Chief Counsel to the US Mission to the UN, for a time tried to justify the military intervention into Iraq as a matter of right as 'occupying powers' after the end of the Gulf War. Adelman refutes this by noting that R 687 in early April effectively ended the state of belligerency and with it any rights of occupation. He goes on to give an opinion that humanitarian intervention needs to be conducted to protect the rights of individuals (that is, to safeguard their physical welfare) rather than the rights of 'minorities' (which suggests action to guarantee political or human rights).

³⁷ Adelman p 28.

³⁸ This assessment distinguishes between the practice in support of states acting to assist their own nationals from threat or harm in a foreign country from the possibility of a state intervening in the affairs of another to protect the human rights of persons who were not nationals of the intervening state.

³⁹ Greenwood 'New World Order' p 177.

Another possible condition for legitimate forcible intervention is that of 'trans-border effects'. By this test the abuse of human rights in a state is a subject for international concern and action if the abuse leads to adverse consequences for neighbouring states: those consequences would 'internationalise' the situation. But this condition might not be *essential*. The spread of international standards into many areas once considered 'sovereign' makes any objective trans-border threshold unsustainable.⁴⁰ The argument runs that deprivation or suffering inside a state may become intolerable to the international community even if there is no trans-border effect. Furthermore international frontiers often fall across territories occupied a single ethnic group, or lie so far from their territories as to make cross border migration almost impossible. Furthermore states bordered by uncrossable obstacles, such as impassable mountain ranges or the sea, might be protected from intervention just because the victim population cannot flee across a border. It is likely therefore that the 'trans-border effect' will be a powerful stimulus to intervention but it is also true that some will reject it as an *essential* pre-requisite for action.⁴¹ Rodley says that the trans-border element cannot be ruled out' as a necessary condition justifying intervention. It is clear that many states would require an international dimension - a weaker condition than a (measurable) trans-border effect - to a crisis in order to see it as a matter of 'international peace and security', as required by A 39. As Rodley puts it '[t]here can be no doubt that the refugee problem created by the post-Gulf War situation made it easier

⁴⁰ Perez de Cuellar, the former Secretary-General, has asked whether the Universal Declaration on Human Rights has not called into question the inviolability of A 2(7). Speech of 22 April 1991 University of Bordeaux, UN press release SG/SM/4560 24 April 1991.

'...whether certain other texts ... in particular the Universal Declaration on Human Rights do not implicitly call into question this inviolable notion of sovereignty... while the principles of sovereignty cannot be radically challenged without international chaos rapidly ensuing ... we have reached the stage in the ethical and psychological revolution of human civilization in which the massive and deliberate violation of human rights will no longer be tolerated.... forge a new concept, one which marries law with morality.'

See also 'SG Perez de Cuellar Sees Change in Basic Non-interference Doctrine', Diplomatic World Bulletin, vol 22, May 1991, p 1.

⁴¹ It was not until R 794, adopted in 1992, that the Security Council first authorised Chapter VII enforcement action involving the *use of force*, *inside* the state concerned, *solely* on the basis of human rights violations. H McCoubrey and ND White International Law and Armed Conflict (Dartmouth, 1992) p 24.

for some Security Council members to vote for resolution 688'.⁴² He concludes that trans-border effects may become a necessary prerequisite for intervention. Indeed this condition may be seen as a necessary threshold to avoid the interference with domestic affairs - the *domaine réservé* - which many states, quoting A 2(7), are determined to maintain.

This analysis of the legal and political questions raised by 688 and subsequent events in the Kurdish Crisis shows that the international community is willing to take forcible action, not only in the face of the familiar threat of international aggression, but also in certain selected cases where order within a state has broken down. International law is not yet fully attuned to the question of forcible intervention in intra-state conflict, however. Where international aggression occurs the UN Charter provides the means for concerted action by the international community. But the Charter does not explicitly provide the means for action against threats to international security arising out of a civil war. Indeed the Charter rules out intervention in state's 'domestic' jurisdiction and this has been the legal basis for the refusal of some Council members to cast an affirmative vote for intervention.⁴³

So what can be said of the state of international law, and the practice of states in diplomacy, in the fields of peacekeeping and intervention, at the end of the Kurdish Crisis? Paul Fifoot completes his review of the state of international law on 'humanitarian intervention' by defining three main conclusions.⁴⁴ Drawing on those conclusions, and restricting the coverage to go no further than April 1991, the following statements can be made about the state of international law at the start of the crisis:

- The UN does take up, consider and pass judgement on serious violations of human rights in states and will

⁴² Rodley p 34.

⁴³ Greenwood infers the Gulf War coalition partners chose not to seek an explicit Security Council authority for Operation PROVIDE COMFORT in order to avoid testing the willingness of some Council members to abandon their adherence to A 2(7) in cases of humanitarian crises within states. 'New World Order' p 177

⁴⁴ Fifoot p 159-61.

continue to adopt resolutions in support of human rights.

- Whereas the UN was prepared to authorise enforcement action - amounting to some use of force but not 'all necessary means' - to pressurise Southern Rhodesia it is likely that UN member-states from the Developing World, and others, will resist the use of 'legal fictions' to allow enforcement in the form of 'all necessary means'. There will be reluctance to endorse armed intervention into civil wars, unless there are unmistakable and serious 'trans-border' effects.
- The UN has never *forcibly* intervened inside a state, nor authorised others to do so, with a sole mandate of the protection of human rights. Even after many Chapter VII resolutions against Iraq in the Gulf Crisis (and Kurdish Crisis) the UN felt obliged to conduct its humanitarian work in Iraq with the consent of the host state, and subject its personnel and activities to restrictions imposed by that state.

Looking back at the Kurdish crisis Howard Adelman offers a list of necessary conditions for acts of (non-consensual and forcible) humanitarian intervention to be legal:

- The right is to be used to provide relief and protection, but for no other purposes;
- The right is to be used when the coercive use of force by a sovereign authority is so extensive as to induce mass flight;
- The right is only to be used when that mass flight is so extensive as to threaten the peace and security of neighbouring states;
- The right should be exercised as a last resort, or in conditions of extreme urgency, together with non-forcible sanctions;
- The right is to be exercised only when it is claimed either by the adjacent state whose security is threatened by the mass exodus (as a matter of self-defence) or when it is explicitly endorsed by the Security Council;
- The intervening forces should use minimal force, should not 'alter the regime' of the target state and

single-nation forces should be replaced by 'multinational' forces without delay.

The boldness of the coalition action in those early months of 1991 did not stem from the clarity or decisiveness of R 688. On the contrary 688 was a cautious statement. The coalition effort went ahead because it was clear that, despite the caution in the Security Council, several leading states (more-or-less supported by rest of the international community) was prepared, under the exceptional circumstances, to condemn Iraq and permit forcible intervention onto its territory as the best solution to the crisis. The clamour for *military action*, in the press if not in 688, made PROVIDE COMFORT a political, if not a legal, necessity.⁴⁶ But the international community was not ready to declare a general shift in favour of intervention in support of human rights. This reluctance to carry forward a human rights agenda stemmed not just from an 'anachronistic preference for the old statist order'⁴⁷ but also from an awareness that a precedent for intervention might be even more dangerous and destabilising. It might even undermine the order it was created to support.

The issues raised by the question reach back into the origins of modern international law, and indeed, into the fundamentals of political philosophy regarding inter-state relations. They bring together the opposing strands of 'order' and 'justice', 'sovereignty' and 'human rights'. Maybe the international community is poised to recognise that Vincent's 'basic rights' can no longer be ignored. The cultural and political obstacles to realising such an ideal in the practice of states are formidable, however; it may be that recent crises in Bosnia, Haiti and Rwanda will lead to greater caution still in forging new instruments for the forcible protection of human rights, especially the rights claimed by religious or ethnic minorities. The international community may come to accept forcible intervention as

⁴⁶ Such as the G7 endorsement of PROVIDE COMFORT p 268, above.

⁴⁷ Dannreuther p 75.

a legitimate weapon - albeit one of last resort - which may only be used in exceptional circumstances, and with a significant risk of failure. Perhaps the next time a crisis like the Kurdish Crisis occurs - if the conditions are ever repeated - we shall see another Resolution such as 688, passed to enable where it cannot command.

No one can say how states will react to a subsequent crisis which will occur in different circumstances. Certainly the international community has now witnessed - and may be said to have tacitly endorsed - an effective intervention operation. In the case of the Kurdish crisis states were prepared to set aside their normal respect for sovereignty in a manifestly just cause. To that extent a precedent has been set in political, if not in legal, terms.

A MILITARY ANALYSIS PRINCIPLES OF INTERVENTION

The narrative of events in earlier chapters set out the scope and scale of the operation. The analysis below identifies the reasons for success as well as the obstacles and problems which had to be overcome. It offers some lessons which may assist commanders in future humanitarian operations.

PROVIDE COMFORT brought together air, ground and maritime forces from seven countries⁴⁸ in an unplanned and suddenly executed operation which entailed humanitarian and combat activities. The territory was unfamiliar to most participants. The mission was unusual; it developed in rapidly developing political scene. The ground forces, in particular were working alongside agencies - NGOs as well as Turkish and Iraqi officials - which had their own objectives and methods and which were not under central control. The successful completion of the military mission was a notable achievement.

THE MISSION

⁴⁸ There were seven main contributing nations in the coalition.

The mission assigned to the coalition forces consisted of three objectives:

- aid the DPs
- hand over to the humanitarian agencies
- withdraw

The brevity of this mission and its endorsement by the participating states allowed the operational activity to be focused and well-coordinated. This unity of purpose survived, even when there was disagreement over the withdrawal date of the forces deployed inside northern Iraq. In contrast to the multifarious mandates issued to recent UN peacekeeping operations, and the associated 'mission creep'⁴⁹, the PROVIDE COMFORT coalition states were able to set themselves a simple, 'achievable' mission.

THE PROBLEM AREAS

This section will not repeat the details given in the earlier narrative. But this military analysis needs to recall the most significant threats to the success of mission:

- the scale of humanitarian suffering
- the inhospitable weather and terrain
- the difficulties of multinational cooperation: language, doctrine, intent
- the threat from the Iraqis
- the possible disruption of the coalition plan by the Kurds
- the early problems of coordination with the aid agencies
- the difficulties with Turkey, the 'host nation'
- the inter-governmental dispute over the timing of the withdrawal.

⁴⁹ Complex missions typify UN operations. They arise from the varied interests and attitudes of the 15 Security Council members and other UN member-states. They also come about through the Security Council's revisiting its earlier resolutions and 'updating' its mandates.

By the end of UNPROFOR's mission, after three and a half years, commanders were expected to implement a mandate comprising no less than 70 Security Council resolutions. This mirrored the mission-creep found in UNTAC.

COMMAND

For commanders the multifarious nature of the task produced significant problems of command and control. After a fast deployment the forces needed to make an intense effort in the reception, delivery and distribution of supplies, using a variety of transport resources. There was, moreover, a demanding tactical situation with a threat which was difficult to judge. The force consisted of many nationalities with ad-hoc staff teams and with significant language problems. Operations were conducted in the constant gaze of the international media who were given every assistance. Reporters criticised Turkey's contribution and increased tensions between the 'host' state and the coalition partners. The need for frequent press statements describing complex activities - over an extensive operational area - distracted commanders.

The problems of command were overcome thanks to the professionalism of the formation commanders and their staffs, all the members of which were officers of wide experience and well practised in NATO procedures. The senior staff officers in the multinational headquarters were, with one exception, American.⁵⁰ The planning effort and command decisions were well-judged, well-timed, decisive and comprehensive. A significant contribution was made by the availability of state-of-the-art communications. The overall commander, Lt Gen Shalikashvili, showed great skill.⁵¹

THE IMPORTANCE OF A LEAD-NATION

The US as the lead nation on PROVIDE COMFORT provided two essential components for the success of the whole mission. First, the US provided whatever military assets were not supplied by the other coalition members. Second the massive US contribution allowed the other participants to concede that the US-appointed commander should take the lead in day-to-day

⁵⁰ The only exception was the Chief of Operations at HQ PROVIDE COMFORT, who was a British officer.

⁵¹ He subsequently became SACEUR and then Chairman of the Joint Chiefs of Staff, US Armed Forces.

decision-making. The endorsement of all participants was only required for major policy decisions.

THE OPPOSING FORCES AND OPERATIONAL RISK

Despite the Iraqi forces' recent defeat in the Gulf War they had retained significant military forces, as seen from their success in suppressing two separate armed revolts in the space of a few weeks. At least two divisions of ground forces, fully manned and equipped, were located within five miles of the coalition forces' outposts. Iraq's potential advantage in the number of units available was compounded by the coalition forces' reliance on 'light' troops (marines, paratroops and SF) with minimal organic combat support. (There were less than thirty artillery pieces in support of 12,000 men. There were, furthermore, less than two specialist companies of men available to perform combat engineering tasks.) These light forces were especially vulnerable to CW attack.

Whereas the coalition forces included powerful air forces - 70 fixed wing combat aircraft and 18 attack helicopters - the great distances between bases and operational area limited their combat effectiveness. Operating some 300 miles from their bases (at Incirlik and, for the carrier air wing, from the sea) they could replenish fuel by AAR but they had to return to base to re-arm.

One of the greatest concern of coalition commanders was the vulnerability of the ground forces to Iraqi units, perhaps by infiltration at night. This was due in part to the lack of tactical air reconnaissance available to the coalition forces. The prime means of tactical air reconnaissance was the US Navy's F-14, fitted with the 'wet film' recce pod. 'Real time' provision of the surveillance product - typically by instantaneous download to a ground terminal at the operational headquarters - was not available to the coalition forces. These aircraft were part of the carrier air wing and operated over northern Iraq at extreme range. The responsiveness of the air recce was limited by the

time taken to task recce missions and to interpret the results. The capability was, furthermore, limited to good visibility. Other recce assets, including coalition helicopters and ground recce units, were only tasked to survey terrain within visual range from outposts. They did not overfly Iraqi positions to the south of the security zone. (Coalition commanders were careful not to offer the Iraqis slow-moving air targets.) Another limitation was the sensitivity of the photography; the photographs could not be relied on to detect infantry on foot, especially if under overhead cover. The limited effectiveness of coalition information systems compounded the threat presented by nearby Iraqi forces. PROVIDE COMFORT forces operated, therefore, not under conditions of dominance associated with DESERT STORM - as is generally assumed - but under significant operational constraints and disadvantages.

The tactical problem was compounded by the dispersal of the ground forces. In order to maximise combat power light forces need to concentrate. ('Concentrate' does not necessarily mean 'co-locate'. It is sufficient that units should be close enough to support one other by fire.) This is especially important when the threat is infiltration by large numbers of enemy infantry, approaching in cover or in darkness. The dispersal of the coalition forces was nevertheless deliberate and necessary: it was an essential confidence-building measure designed to reassure the Kurds. Coalition forces needed to show themselves throughout the security zone (and in the air to create a visible presence throughout the wider air exclusion zone) to reassure the local people. The Kurds' suspicion of security conditions in northern Iraq made dispersal essential. When the assessed threat increased⁵² this requirement had to be balanced against the risk of attack.

The dependence on heavy usage of long distance communications and the parallel national lines of communications also created vulnerabilities. An

operational emergency would have provided severe tests to both and compounded other inter-operability problems.

The logistic problems faced by the coalition were significant. The multinational force units were deployed far from their normal operational areas. Huge quantities of stores had to be transported over great distances. Logistic requirements in support of the humanitarian mission constantly changed: emergency supplies of food, medical and shelter stores were replaced by more palatable foods, clothing, vehicle parts and bulk containers. Soon afterwards the requirement shifted to building supplies and stores for the reconstruction or renovation of infrastructure. Logisticians also had to sustain the military force and prepare for the logistical requirements of combat. A logistic operation of this kind can produce rapid results but it is a relatively expensive method of providing services to people in need.

By the end of the operation it was clear that Iraqi mines and unexploded ordnance had presented the greatest risk to coalition forces. Seven members of the coalition forces were killed and over 100 wounded by these devices.

The units were well chosen for their humanitarian role but lacked the punch which would have been required for decisive air-land combat operations. PROVIDE COMFORT therefore operated without the doctrinally-essential capabilities of 'escalation dominance', the strength to withstand attack by one or all of the hostile, or potentially hostile, forces and the ability to regain the military initiative after such an attack. (This conclusion is based on an assumption that coalition forces would have been constrained - by overarching political considerations of 'proportionality' - from using long-range weapons systems based outside the immediate operational area to inflict overwhelming damage on targets of value throughout Iraq.) Despite the impressive appearance of

⁵² During the decision-making over occupying Dohuk.

the force it was vulnerable in many respects. It was this knowledge which lay behind the hesitation and caution of coalition military conduct, at certain times. Operational risk was a constant topic of discussion amongst commanders and staffs.

It is possible that the success of the threat of massive punishment deterred the Iraqis from attacking the relatively vulnerable coalition forces, at critical points in the operation. It is also possible that the US authorities attributed the success of Op PROVIDE COMFORT, in immediate retrospect, to the 'humanitarian' mission and the operational qualities of the light-forces-supported-by-air-power force mix. The effect of the post Gulf War trauma - and the wider deterrent presented by massive US forces in-theatre - on the Iraqis may have been discounted. According to this hypothesis the result was a reliance on a humanitarian mission and light forces to produce success in the next 'intervention' crisis involving the US: Somalia. It appears that these, less obvious, lessons from PROVIDE COMFORT were disregarded in that operation.

RELATIONS WITH THE HOST NATION

It is clear that the coalition states underestimated the political tensions in Turkey over the aid operation. The impact of those tensions on the operation itself also took them by surprise. Where future humanitarian intervention operations are dependent on the cooperation of a host nation the coalition should make every effort to understand any questions of principle or presentation which may annoy the local authorities. This should include a media policy whereby due credit is constantly given to the efforts of the host nation. Furthermore coalition commanders need to ensure that any sensitivities on the part of the host nation are fully understood by all ranks. Transparency, honesty, and the anticipation of host nation objections may be as critical to success as military efficiency.

DOCTRINE

The increase in multinational 'peace support' operations since the end of the Cold War has led to developments in military doctrine in several states. Recent doctrinal writings provide a means of analysis of this operation, and will in turn be influenced by this operation. In a perceptive article written two years before the Gulf Crisis Richard Connaughton laid out the principles of successful military intervention.⁵³ Drawing on the examples of allied intervention in Siberia in 1918-20 he identified the following :

- Select, and maintain, a coherent Aim for the operation
- To operate under the auspices and coordination of a valid and supportive international organisation
- To establish a simple and agreed unified command, control, communications and intelligence organisation
- Plan the force extraction concurrently with the planning of the force insertion
- Establish an effective *cordon sanitaire* around the target area
- Maintain consensus
- Agree and adhere to national contributions
- Military intervention should be the last resort of a collective security policy.

As he showed in a later article⁵⁴ these principles form an excellent framework for analysis of multinational military cooperation, not just in the military intervention of DESERT STORM but also in the humanitarian intervention response to the Kurdish Crisis which followed it.

This operation might suggest the addition of two further principles:

⁵³ Richard Connaughton 'The Principles of Multinational Intervention' British Army Review No 97, Summer 1987.

⁵⁴ Richard Connaughton 'The Principles of Multinational Military Intervention and the 1990-1 Gulf Crisis' British Army Review, No 102, Autumn 1991, p 4-11.

- assign forces capable of defeating any likely opposition⁵⁵, and
- assign forces capable of rapid deployment (and return).

CONCLUSIONS

The conclusions of this Chapter are:

- International law is still founded on the concept of sovereignty. The international community is only prepared to authorise intervention under exceptional circumstances. The few precedents which do exist pre-1990 are predominantly for non-forcible action. In the case of ECOWAS intervention of 1990 (and now, arguably, the intervention on behalf of the Kurds in 1991) the international community was prepared to give tacit approval to a forcible intervention, in even more 'exceptional circumstances'. (In the case of ECOWAS the endorsement was explicit but retrospective.)
- The contribution of the Kurdish intervention to the development of international practice in intervention is a matter of debate. A limited consensus has emerged in the years since the crisis. It can be described as follows. R 688 and the Kurdish intervention itself did not establish a 'right' of humanitarian intervention nor did the agreements the UN negotiated with the Iraqis add any weight to the argument that such a right should be adopted by the international community. All but a few commentators will agree, however, that there is now greater 'elasticity' in the concept of sovereignty, especially where the abuse of human rights is found inside a state. Similarly a looser definition of conditions amounting to a 'threat to international peace and security' can now be said to exist.
- Commentators are divided on the future prospects of a 'right of intervention' to avert the mass abuse of human rights. But there is general agreement that 688 provided some expansion of the legal justifications

⁵⁵ This principle captures the useful concept of "escalation-dominance", the capability to match and if necessary exceed, the enemy's ability to escalate the use of force in any confrontation.

- Commentators are divided on the future prospects of a 'right of intervention' to avert the mass abuse of human rights. But there is general agreement that 688 provided some expansion of the *legal* justifications for intervention and may have the longer-term effect of providing a strengthened *political* precedent for future interventions. Politics and law are not entirely separate, however. They are connected by 'custom'.
- With hindsight the military success of the operation seems to have been assured from the start. That was not the perception of the participants at the time. Success was due to the following factors:
 - the simplicity of the mission and its endorsement by the participating states.
 - the professionalism of the coalition forces, and their commanders and staffs in particular.
 - the cooperation between the multinational air, land forces and marines.
 - the initiative achieved for the coalition by the earlier defeat of the Iraqi forces in the Gulf War, providing a workable deterrent which prevented Iraqis attacks on a comparatively weak force.
 - international opinion supported PROVIDE COMFORT and the forces deployed benefitted from the support of the public in their own countries.
 - the operation showed effective decision-making and command at all levels, largely because of the 'lead-nation' concept whereby the US contingent provided the coordination and took day-to-day command responsibility.
 - the resources brought by the US to the operation made good the shortfalls of smaller contingents.
 - the responsiveness of the coalition force derived from its combat aircraft, its airlift resources and its specialist light infantry forces; clearly the quality of the forces employed contributed to the overall success
 - the logistics specialists in the multinational force overcame great obstacles in the provision, distribution and control of a great quantity and great variety of relief supplies. They also provided economical and well-designed support for

- the sense of purpose and enthusiasm of all concerned for the humanitarian mission.

- The effort made by the multinational forces, and the costs borne by their governments, over the first 9 weeks of the operation, and then in the conduct of the 'residual force' were significant. This suggests that unusually powerful motives were driving the effort. It would be unwise to imagine that the resources involved would be committed on subsequent occasions as a matter of routine, without powerful political motives being engaged.

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